

1 STATE OF NEW YORK : NASSAU COUNTY

2 COUNTY COURT : PART XIV

3 THE PEOPLE OF THE STATE OF NEW YORK,

4 - against -

5 PAUL SCRIMO,

6

Defendant.

7

8

May 3rd, 2002

9

262 Old Country Road

Mineola, New York

10

B E F O R E:

11

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THE HONORABLE JEFFREY BROWN,
County Court Judge.

13

A P P E A R A N C E S:

14

15

(As previously noted.)

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18

THE CLERK: Case on trial. All parties are
present. The jurors are not present at this time,

19

except for juror number four, Mr. Schor.

20

People ready?

21

MR. BIANCAVILLA: Ready.

22

THE CLERK: Defense ready?

23

MR. CHAMBERLAIN: Defendant ready.

24

25

THE COURT: Counsel, I received this morning
a letter that was hand delivered to me through the

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1 court officers which I have given each one of you an
2 opportunity to read. It's from the superintendent of
3 schools for the Levittown public schools. I'll read it
4 into the record.

5 Dear Honorable Judge Brown: Doctor Schor is
6 the principal of Abbey Lane Elementary School in the
7 Levittown School District. While there are times when
8 a principal's service on jury duty can be accommodated
9 at the school, such absence of a principal at this time
10 of year presents an extensive hardship on the school
11 district and students. We are in State testing and the
12 end of the year programs where the principal's presence
13 is crucial and cannot be substituted. For this reason,
14 I would hope you will consider postponing Doctor
15 Schor's jury duty at this time.

16 Doctor Schor, did you ask for an adjournment
17 prior to coming over here when you went to central jury
18 because of this time of year?

19 PROSPECTIVE JUROR: I didn't. My experience
20 with jury duty in the past, you're in for a day or two
21 and then you are sent out. I didn't think there would
22 be a problem.

23 THE COURT: We do try cases in the courts.
24 What happens if you are picked for a jury?

25 PROSPECTIVE JUROR: Also the fact that my son

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1 is a prosecutor, I didn't feel it was likely I would be
2 called on to serve in a criminal case.

3 THE COURT: As you see, it did happen.

4 PROSPECTIVE JUROR: Yes, I do see that.

5 THE COURT: Counsel, do you have any
6 objection?

7 MR. BIANCAVILLA: Consent.

8 MR. CHAMBERLAIN: Consent.

9 THE COURT: Doctor Schor, we are going to let
10 you off this case. Next time, I would suggest you make
11 an application at central jury.

12 PROSPECTIVE JUROR: Thank you.

13 THE COURT: Doctor Schor, I think you have to
14 go back to central jury.

15 (Whereupon, the prospective juror was
16 excused.)

17 MR. CHAMBERLAIN: Judge, before the new panel
18 comes in, I have an application. I was just handed a
19 supplementary fingerprint report on a print taken from
20 the victim's apartment, obviously, over two years ago
21 at this point.

22 This is something that was demanded as part
23 of discovery. I would like to know if the district
24 attorney knows who Mr. Schwartz (phonetic) is. I have
25 no idea at this point. It's a person by the name of

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1 Steven Schwartz. I asked him and he said he wouldn't
2 reveal at this time, that we would find out during the
3 trial.

4 I would ask the Court to advise him to tell
5 me who Mr. Schwartz is and what he knows about his
6 possible relationship to the victim.

7 Aside from that, Judge, the report indicates,
8 quote, there are latents remaining on this case, close
9 quote.

10 I don't want to be in the middle of trial and
11 find out there is a latent fingerprint that they are
12 first getting around to bringing up. I would like some
13 explanation as to why there are latents that have not
14 been taken.

15 THE COURT: May I see what you were handed,
16 Mr. Chamberlain?

17 Mr. Biancavilla, do you wish to be heard?

18 MR. BIANCAVILLA: Judge, we turned over a
19 copy of this report. This report was completed this
20 morning. Just for Mr. Chamberlain's clarification,
21 every report he has gotten says there are latents
22 remaining on the case.

23 A latent fingerprint is a fingerprint
24 recovered from the crime scene that's not matched up to
25 someone. There are fingerprints from that scene that

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1 were not matched up with someone. This happened to be
2 one of those fingerprints. This morning it was matched
3 up and I gave him a report as soon as I got it. It's
4 dated May 3rd, 2002.

5 THE COURT: This was not in your custody
6 until today?

7 MR. BIANCAVILLA: No. He's aware there are
8 latent fingerprints that remain in this case. Every
9 time one gets matched, we provide documentation to it,
10 which is what we did this morning.

11 As to who the person is, I'm not required to
12 disclose to Mr. Chamberlain who the person is, nor what
13 the relationship to the victim was.

14 THE COURT: What I would ask, is this person
15 going to be a witness during this trial?

16 MR. BIANCAVILLA: We are not calling him, no.

17 MR. CHAMBERLAIN: Judge, I'm a little curious
18 as to why latents are being matched two year after to
19 the crime.

20 MR. BIANCAVILLA: That's police procedure.
21 You have open prints. You try to match them to
22 someone.

23 THE COURT: You're saying it took until this
24 date to match them up?

25 MR. BIANCAVILLA: Exactly. That's all.

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1 THE COURT: If a particular detective is
2 placed on the stand, you can examine him as to that
3 issue.

4 MR. BIANCAVILLA: Detective Costello will be
5 testifying as to the prints on the case. He has done
6 all the work.

7 THE COURT: Mr. Biancavilla, as an officer of
8 the court, tells me that was just handed to him and
9 it's dated May 3rd.

10 I don't know what to tell you other than he
11 turned it over to you as soon as he got it which was
12 today. Today is May 3rd.

13 MR. BIANCAVILLA: As I walked in this
14 morning, the detective handed it to me. I made a copy
15 of it and handed it to Mr. Chamberlain as soon as I
16 came in.

17 MR. CHAMBERLAIN: Some information we had was
18 that there was a New York City narcotics officer in the
19 apartment with some relationship with the victim. The
20 question of the relationship of these people with the
21 victim, I think, could be important during the trial of
22 this case.

23 I would like to know whether there's been any
24 information that they have concerning that or the
25 relationship with this person to the victim. Even if

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1 they are not going to call this person, I think we are
2 entitled to know if they find latents there because
3 this was a crime scene.

4 Who might have been present at the crime
5 scene are important factors and factors that we asked
6 for in discovery two years ago.

7 MR. BIANCAVILLA: Detective McHugh will be
8 testifying during the trial and Mr. Chamberlain can ask
9 him who anybody is.

10 THE COURT: As you are aware,
11 Mr. Chamberlain, discovery is controlled by the
12 Criminal Procedure Law. I'm not sure this falls under
13 anything in particular that you would be entitled to at
14 this juncture. I presume it's Rosario material with
15 respect to Detective McHugh. I don't know --

16 MR. BIANCAVILLA: Actually,
17 Detective Costello.

18 THE COURT: Detective Costello. I don't know
19 if he testified at any previous hearings or not and
20 even if he did --

21 MR. CHAMBERLAIN: Costello did not.

22 THE COURT: Then at this point the Rosario
23 material is, in essence, early, for lack of a better
24 word.

25 MR. BIANCAVILLA: We provided it because it

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1 was a report that might be referred to during the
2 course of his testimony. That's why we provided it.

3 THE COURT: You'll have ample opportunity to
4 cross-examine the detective with respect to this report
5 and to why it took two years for him to provide the
6 information to the district attorney.

7 MR. CHAMBERLAIN: Judge, my position is I
8 believe that report would be covered under, not
9 Rosario, but discovery material which we requested two
10 years ago.

11 THE COURT: What subdivision?

12 MR. CHAMBERLAIN: It's under the 240 section.

13 THE COURT: I understand, but which
14 subdivision?

15 MR. CHAMBERLAIN: I don't have my discovery
16 demand here but it would be under scientific reports.

17 THE COURT: 240.21(c) says, I quote, Any
18 written report or document or portion thereof
19 concerning a physical or mental examination or
20 scientific test or experiment relating to the criminal
21 action or proceeding which was made at the request of
22 or direction of a public servant engaged in a law
23 enforcement activity or a person whom the prosecutor
24 intends to call as a witness or the people intend to
25 produce at trial.

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1 I understand this may fall under that
2 category. However, based on what Mr. Biancavilla tells
3 me, that he just received this from the police
4 department and turned it over to you on the same date,
5 I can't go beyond that at this juncture. However, if
6 you find something out and you want to revisit this,
7 you can.

8 MR. CHAMBERLAIN: Thank you, Judge.

9 A year or so after, we get fingerprint
10 reports they apparently had that they didn't turn over
11 when they turned over the first batch. I'm curious why
12 they are doing testing on latents more than two years
13 after the incident. There was a John Marks that had
14 been taken before and we just didn't get the report
15 even though it was a year old when we finally got it.

16 With that, I'll rest on that point, Judge.

17 (Whereupon, there was a brief recess taken.)

18 (Whereupon, the panel of prospective jurors
19 entered the courtroom.)

20 THE COURT: Good morning, ladies and
21 gentlemen. My name is Jeffrey Brown and I'm a County
22 Court judge and I'll be presiding over this trial.

23 At this time, now that you have all gotten
24 comfortable, I'm going to ask you to rise so the clerk
25 can swear you in.

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1 (Whereupon, the panel of prospective jurors
2 was sworn by the clerk.)

3 THE COURT: Again, good morning, ladies and
4 gentlemen.

5 At this point what I am going to do is we are
6 going to follow a certain procedure, but I want to give
7 you a little bit of information first.

8 We are looking -- at this point, we are
9 already in the process of voir dire and we need to pick
10 four more jurors and four alternates.

11 The charge in this case is murder but this is
12 not a capital case. Additionally, let me tell you that
13 the allegations are that the murder occurred
14 April 12th, 2000, in the County of Nassau in the
15 community of Farmingdale, New York.

16 At this point what I am going to do is give
17 you -- oh, one other thing I want to tell you. This
18 jury will not be sequestered. That means you'll go
19 home each and every night, including during
20 deliberations, however, we never know what will happen
21 in the course of a trial. But at this juncture, we
22 don't plan to sequester the jury which means you will
23 go home at night during deliberations.

24 Usually we work from 9:30 to quarter to 5:00
25 and you are off for lunch.

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1 At this point I am going to ask you to come
2 forward if you meet any of the three following
3 requirements. I am going to read them to you now.

4 Those of you who have tickets to travel and
5 have the tickets with you and proof that you are going
6 on vacation within the next few weeks -- to let you
7 know, we expect this trial to take approximately two
8 weeks and we will be commencing the trial on Monday.

9 Now, if you have tickets and you have a
10 scheduled vacation or if you are going somewhere with
11 respect to a business trip and you actually have
12 tickets with you, get on line and come forward.

13 Another reason I'll permit you to come
14 forward at this point is if you are the sole parent or
15 guardian of a person who resides in the same household,
16 a child under 16 years of age, whose principal
17 responsibility is to actually personally engage in the
18 personal care and supervision of that child.

19 The other reason, if you are a sole business
20 owner without any employees, if you have a business
21 that must close as a result of you serving on jury
22 duty.

23 You can come forward, if you meet any of
24 those three requirements, and, if you don't, we'll just
25 ask you to sit back down again and you'll have to go

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1 through the process. However, if you meet one of those
2 three requirements, you can stand up now and the court
3 officers will ask you to come forward one at a time.

4 (Whereupon, the following took place at the
5 bench outside the hearing of the prospective jurors and
6 the defendant.)

7 THE COURT: What is your name?

8 PROSPECTIVE JUROR: Andrew Extract. I am the
9 sole proprietor of a business. I do computer
10 consulting. I have no employees.

11 THE COURT: You work out of your house?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: If you do not show up, what would
14 happen? Would no money come into the household?

15 PROSPECTIVE JUROR: Right. I worked on --
16 most of my clients are during the day. I work with
17 businesses.

18 THE COURT: Counsel?

19 MR. CHAMBERLAIN: Consent.

20 MR. BIANCAVILLA: Consent.

21 (Whereupon, the prospective juror returned to
22 his seat.)

23 THE COURT: What is your name?

24 PROSPECTIVE JUROR: John Volpe. I have a
25 planned vacation on the 13th of May. I don't know if

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1 that will interfere. I wasn't prepared to bring
2 tickets or reservations but I can supply them later on
3 today.

4 THE COURT: Do you work for the airlines?

5 PROSPECTIVE JUROR: My wife does.

6 THE COURT: Does she get free transportation?

7 PROSPECTIVE JUROR: This is a driving
8 vacation. I'm going to Maryland.

9 THE COURT: Do you have hotel reservations?

10 PROSPECTIVE JUROR: Yes. I'm going for four
11 days, the 13th through Thursday.

12 THE COURT: Counsel?

13 MR. BIANCAVILLA: Consent.

14 MR. CHAMBERLAIN: Consent.

15 (Whereupon, the prospective juror returned to
16 his seat.)

17 THE COURT: Place your name on the record.

18 PROSPECTIVE JUROR: Frank Caponia.

19 I am self-employed. I don't have any
20 employees and I have to be there. If I have to be here
21 two weeks --

22 THE COURT: What is your business?

23 PROSPECTIVE JUROR: New home building.

24 THE COURT: You do it by yourself?

25 PROSPECTIVE JUROR: Yes.

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1 THE COURT: That's amazing.

2 PROSPECTIVE JUROR: I don't do the work but I
3 supervise. I'm the only guy there to supervise.

4 THE COURT: Are you in the middle of a
5 project?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Questions?

8 MR. CHAMBERLAIN: No questions. Consent.

9 MR. BIANCAVILLA: Consent.

10 (Whereupon, the prospective juror returned to
11 his seat.)

12 THE COURT: Your name?

13 PROSPECTIVE JUROR: Felice Menchel.

14 I am a self-employed physical therapist.

15 THE COURT: Do you work out of an office or
16 go to people's homes?

17 PROSPECTIVE JUROR: People's homes.

18 THE COURT: Do you work for an agency?

19 PROSPECTIVE JUROR: I subcontract early
20 intervention and geriatrics.

21 THE COURT: Do you get paid if you are
22 sitting on jury duty?

23 PROSPECTIVE JUROR: No. And my patients
24 don't get seen.

25 THE COURT: Questions?

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1 MR. BIANCAVILLA: Consent.

2 MR. CHAMBERLAIN: Consent.

3 THE COURT: Just have a seat.

4 (Whereupon, the prospective juror returned to
5 his seat.)

6 Place your name on the record.

7 PROSPECTIVE JUROR: Beverly Capparilla.

8 Good morning.

9 I have a bus trip, just one day, May 10th.

10 THE COURT: Where are you going?

11 PROSPECTIVE JUROR: New York City. It's
12 already paid for.

13 THE COURT: That would be in the middle of
14 the trial, that's true.

15 Where are you going in the City?

16 PROSPECTIVE JUROR: Museums and then Little
17 Italy.

18 THE COURT: Is this through a library or
19 something like that?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: How much money did you pay for
22 the trip?

23 PROSPECTIVE JUROR: \$59.

24 THE COURT: Counsel?

25 MR. CHAMBERLAIN: Consent.

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1 MR. BIANCAVILLA: Consent.

2 (Whereupon, the prospective juror returned to
3 her seat.)

4 THE COURT: Put your name on the record.

5 PROSPECTIVE JUROR: Deborah Wiseman.

6 I wasn't sure if I understood, but I have a
7 14 year old. I work full time but I have full custody.

8 THE COURT: Basically -- since you work full
9 time, it appears to me someone else watches your child
10 while you work.

11 PROSPECTIVE JUROR: Well, he's 13.

12 (Whereupon, the prospective juror returned to
13 her seat.)

14 THE COURT: Yes, sir, your name?

15 PROSPECTIVE JUROR: Howard Joseph.

16 I have a small retail furniture store in
17 Brooklyn. As we speak, my bookkeeper is the only one
18 in the place now.

19 THE COURT: How is she at selling furniture?

20 PROSPECTIVE JUROR: It's a burden.

21 MR. BIANCAVILLA: No questions.

22 MR. CHAMBERLAIN: No questions. Consent.

23 THE COURT: Have a seat.

24 (Whereupon, the prospective juror returned to
25 his seat.)

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1 State your name for the record.

2 PROSPECTIVE JUROR: John Bartlett.

3 I have a vacation starting the 13th and a
4 doctor's appointment on the 13th.

5 THE COURT: Where are you going?

6 PROSPECTIVE JUROR: Hopefully, Atlantic city.

7 THE COURT: This is vacation from?

8 PROSPECTIVE JUROR: My regular job.

9 THE COURT: Have you already taken the time
10 off.

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: You work for?

13 PROSPECTIVE JUROR: Fleet Service, American
14 Airlines.

15 THE COURT: You're locked in the time.

16 PROSPECTIVE JUROR: Right.

17 THE COURT: Could you switch that if you had
18 to?

19 PROSPECTIVE JUROR: I would have to put in
20 and tell them I had to.

21 THE COURT: And you have a doctor's
22 appointment?

23 PROSPECTIVE JUROR: Yes, on the 13th.

24 THE COURT: Can you switch it?

25 PROSPECTIVE JUROR: I can switch it probably.

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1 It's no big deal, just call them up.

2 THE COURT: I don't want you to switch if
3 it's something you've been waiting for.

4 PROSPECTIVE JUROR: Three weeks, a month.

5 MR. BIANCAVILLA: Consent.

6 MR. CHAMBERLAIN: Consent, Judge.

7 (Whereupon, the prospective juror returned to
8 his seat.)

9 THE COURT: Put your name on the record.

10 PROSPECTIVE JUROR: My name is Corey Slipman.

11 THE COURT: Yes, sir?

12 PROSPECTIVE JUROR: I'm a practicing dentist
13 in solo practice.

14 THE COURT: When you say you are a solo
15 practitioner, you have no other dentist working with
16 you?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Is this something that you can
19 reschedule? These people, can you see them at night?

20 PROSPECTIVE JUROR: Well --

21 THE COURT: It's not funny -- a lot of
22 dentists work at night -- to ask these questions.
23 You're saying if you sat on this trial you would not be
24 bringing money into the household?

25 PROSPECTIVE JUROR: Basically that's it.

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1 MR. BIANCAVILLA: Consent.

2 MR. CHAMBERLAIN: Consent, Judge.

3 (Whereupon, the prospective juror returned to
4 his seat.)

5 THE COURT: Your name?

6 PROSPECTIVE JUROR: William Stasco.

7 I am self-employed. I have a collision shop.
8 I just have my partner and a helper and I do the frame
9 work. My partner doesn't do frame work and he doesn't
10 paint.

11 THE COURT: Do you have a lot of cars in the
12 shop at the moment?

13 PROSPECTIVE JUROR: We are a business shop.
14 Our employee just had a back operation.

15 THE COURT: Counsel?

16 MR. BIANCAVILLA: Consent.

17 MR. CHAMBERLAIN: Consent.

18 (Whereupon, the prospective juror returned to
19 his seat and the following took place in open
20 court.)

21 THE CLERK: The following jurors have been
22 excused from this panel with the thanks of the Court.
23 If I call your name, please gather all of your personal
24 belongings and step out and follow the instructions of
25 the court officers. You will be returning to central

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1 jury, William Stasco, Corey Slipman, John Bartlett,
2 Howard Joseph, Beverly Capparilla, Felice Menchel,
3 Frank Caponia, John Volpe, Andrew Extract.

4 If you heard your name, you have been
5 excused. If you have not, please remain seated.

6 (Whereupon, the excused prospective jurors
7 exited the courtroom.)

8 THE CLERK: Jurors, if I call your name,
9 please gather your personal belongings, have your
10 questionnaires ready to hand to the court officers and
11 follow their instructions, and, at this time, I ask you
12 to separate your questionnaires into the individual
13 copies, please, to hand to the officers, Steven Adamo,
14 seat number one; Russel S. Davidson III, seat number
15 two; Patrick Enz, seat number three; Michelle White,
16 seat number four; Larry Williams Jr., seat number five;
17 Vincent A. Zucarelli, seat number six; Adam M. Wright,
18 seat number seven; Robert J. Froehlich, seat number
19 eight; Thomas P. Fulfaro Jr, seat number nine; Arnold
20 Gamberg, seat number ten; Mary George, seat number 11;
21 Barbara E. Gersten, seat number 12; Victoria Giambrone
22 seat number 13; Hector R. Henry, seat number 14.

23 THE COURT: Again, good morning, ladies and
24 gentlemen. My name is Jeffrey Brown. I'm the County
25 Court judge who will be presiding over this trial.

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1 At this time I intend to make a brief
2 statement to all of you and to ask you certain
3 questions. I want you to know I'm directing my remarks
4 to all of the prospective jurors, both those in the box
5 and those on the other side of the rail.

6 Please pay close attention to all of the
7 questions I ask, particularly the general questions I
8 direct to the body as a whole. The reason for this is,
9 if you are outside the rail and are asked be to seated
10 in the jury box, I will ask you in a general fashion
11 whether your answers to these questions will be yes or
12 no.

13 If you have any difficulty hearing these
14 questions put to the jurors, please make this known and
15 I will repeat myself. The purpose of my inquiries is
16 to obtain twelve citizens to serve as fair and
17 impartial jurors.

18 Now, this case involves the trial of criminal
19 charges brought by the People of the State of New York
20 against the defendant, Paul Scrimo.

21 The defendant is represented by John
22 Chamberlain.

23 MR. CHAMBERLAIN: Your Honor, ladies and
24 gentlemen, John Chamberlain from Garden City.

25 THE COURT: And the District Attorney

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1 represents the People of the State of New York and is
2 represented by Assistant District Attorney Robert
3 Biancavilla.

4 MR. BIANCAVILLA: Good morning.

5 THE COURT: Now, the charges against the
6 defendant are contained in the indictment which alleges
7 that the defendant committed certain criminal acts.

8 As jurors, you are going to be called upon to
9 determine whether or not the evidence which you shall
10 hear and see in this case establishes the defendant's
11 guilt of the charges.

12 In order to do this, you will have to
13 evaluate all the evidence at the end of the trial to
14 determine whether what you have heard from the
15 witnesses and see as exhibits proves the charges beyond
16 a reasonable doubt. This is called finding the facts
17 and that will be your function alone. I will find no
18 facts at this trial.

19 Now, your ultimate decision is called a
20 verdict. Your verdict as to each charge will either be
21 guilty or not guilty. Evidence will be presented,
22 usually by calling witnesses, and the attorneys may
23 suggest that you draw certain conclusions from the
24 evidence. But only you can decide what the evidence
25 proves and the verdict as to each count will remain

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1 your decision alone. As judge, I will make no
2 determination of guilt or lack of guilt.

3 My role in this trial is to make sure you
4 reach a verdict in accordance with the law and I will
5 explain to you what the law is as to all of the issues
6 at this trial.

7 In order that the People and defendant
8 receive a fair trial, I may have to rule on questions
9 concerning the conduct of the trial. Those rulings
10 have nothing to do with whether the defendant is guilty
11 or not guilty. I may also rule on questions concerning
12 what evidence you may consider and for what purpose.

13 When I make a ruling concerning whether you
14 may hear some testimony or see some exhibit which is
15 offered as evidence, I will be ruling on whether or not
16 you are permitted to see it or hear it as a matter of
17 law. Likewise, if I instruct you to disregard
18 something you might have heard, I will do so because
19 that is the law.

20 None of my rulings should be taken by you as
21 any indication at all of whether you should believe all
22 or part of what is offered as evidence or that the
23 defendant is guilty or not guilty. That is solely your
24 job to determine. But you must accept the law as I
25 give it to you if the defendant and the People are to

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1 have a fair trial to which they are entitled.

2 Now, the indictment is merely the way by
3 which the State of New York brings into court
4 individuals it claims to have violated the law. It is
5 not any evidence whatsoever of the guilt of the
6 defendant and, indeed, the defendant, Paul Scrimo is
7 presumed to be innocent. This presumption of innocence
8 continues throughout the trial unless and until the
9 jury, having considered all the evidence, shall find
10 that the defendant is guilty beyond a reasonable doubt
11 of the charges made against him.

12 Now, at the conclusion of the trial, it's my
13 province as the judge to instruct the jury as to the
14 law which is applicable to this case and the jury is
15 bound to follow my instructions on the law.

16 The jury, again, is the exclusive judge of
17 the facts and it alone determines whether the People
18 have proved the charges with respect to this defendant
19 beyond a reasonable doubt.

20 Now, in connection with the selection of the
21 jury, counsel for the respective parties have a right
22 to challenge a prospective juror for cause; that is,
23 either counsel may be of the opinion that a particular
24 prospective juror is not qualified or is disqualified
25 from service here because of some fact which affects

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1 his or impartiality as a trial juror.

2 In addition, counsel for the respective
3 parties have an absolute right to excuse a number of
4 jurors for arbitrary reasons without assigning any
5 grounds. That is called a peremptory challenge.

6 Should you be challenged, you are not
7 consider that as a reflection upon your integrity,
8 intelligence or capacity to serve as trial juror.

9 Needless to say, prospective jurors may be
10 excused for a variety of reasons. Do not be
11 embarrassed or concerned about such challenges. In a
12 majority of the instances, you may often discover that
13 you will agree that a juror should be excused or, for
14 that matter, that you, yourself, should be excused from
15 service on the trial jury for valid and easily
16 discernible reasons.

17 In any event, enter into the procedure of the
18 voir dire, that is, is questioning of each prospective
19 juror, with an open mind. I am confident you will
20 answer all questions truthfully and in good spirit,
21 knowing full well that all of us, Court, jury and
22 counsel, are solely concerned with choosing from your
23 number 12 jurors who will be able to serve as a fair
24 and impartial jury.

25 I now caution and admonish all of you, at any

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1 time the court is in recess, you are not to discuss
2 this case or any subject connected with this trial
3 among yourselves. This simply means that you are not
4 to discuss this case with your fellow jurors or, for
5 that matter, with anyone; nor are you to permit others
6 to discuss it with you or in your presence.

7 If anyone tries to discuss this trial or any
8 subject connected with this trail with you despite the
9 fact you tell them not to do so, then report that fact
10 to the Court as soon as possible. If it becomes
11 necessary for you to report such an incident to the
12 Court, let me further caution you, that you are not to
13 discuss such incident with your fellow jurors but
14 report the same to the Court and do so just as quickly
15 as possible.

16 I also charge and admonish you that under no
17 circumstances are you to read anything about this case
18 in a newspaper or magazine, or even to access it on
19 internet, if it should be there, nor are you to listen
20 to or view any radio or television reports concerning
21 this trial or this case.

22 In the event you are selected to serve as a
23 juror and during the course of the trial, if you see
24 the attorneys in the area of the courthouse and they do
25 not acknowledge you or talk to you, it is not that they

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1 do not recognize you but, rather, they are following
2 the Court's direction of having no contact with you.

3 Under no circumstances are you to view the
4 scene of the alleged crime or what you may believe to
5 be the scene of the alleged crime.

6 Finally, you are not to form, even in the
7 privacy of your own mind, nor are you to express, any
8 opinion as to the guilt or innocence of defendant until
9 such time as I submit the case to you for your
10 deliberation.

11 The reasons for these admonitions will be
12 readily apparent. Should you serve as a trial juror,
13 you must decide the case wholly and solely on the
14 testimony and evidence you will hear and see during the
15 trial. Obviously, it would not be fair to make a
16 decision on the basis of something you read or heard or
17 something someone else wrote or said outside of this
18 courtroom.

19 So, abide by these admonitions. Then, if you
20 are sworn to serve as a juror, you will be able to
21 decide all issues with a free and unfettered mind.

22 Additionally, prior to discharge, you may not
23 request, accept, agree to accept or discuss with any
24 person receiving or accepting any payment or benefit in
25 consideration for supplying any information concerning

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1 the trial.

2 For your information, as I said before, we
3 expect this case to take approximately two weeks and
4 we'll be starting on Monday.

5 Now, ladies and gentlemen, we now turn to the
6 actual procedure of choosing of the trial jury.

7 Although my questions will be directed to the
8 prospective jurors seated in the jury box, again, I ask
9 that all of our remaining prospective jurors who are
10 seated in the courtroom, please, pay close attention to
11 my questions so that all of you will become familiar
12 with the functions and responsibilities of trial
13 jurors.

14 My first series of questions will concern
15 matters of general information. These questions will
16 touch on the broad qualifications of trial jurors.
17 Questions that I ask and those that counsel will
18 subsequently ask are in no way intended to embarrass
19 anyone or to delve deeply into your private lives.

20 Basically, these questions can be answered
21 with yes or no answers. For that reason, I will put
22 these general questions to all prospective jurors
23 seated in the jury box. If any of you wish to respond
24 positively with a yes or even with a maybe, just raise
25 your hand. If you do not understand the question, say

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1 so. If you do not raise your hand, I will, however,
2 assume that your answer is no.

3 Now, the district attorney and defendant's
4 attorney and the defendant have been introduced to you.
5 Do any of you know any of these people?

6 Are any of you acquainted with Denis Dillon,
7 the District Attorney of Nassau County or any members
8 of his staff or anyone who works in the District
9 Attorney's office?

10 Do any of you personally know the law
11 associates of the defendant's attorney or anyone who
12 works with him?

13 Is there anyone in the jury box at the
14 present time that has any business pending in the
15 District Attorney's office, police department or some
16 other law enforcement agency?

17 Is there anyone in the jury box or does
18 anyone close to you work for a lawyer or a group
19 principally concerned with the law either as a paid
20 employee or a volunteer or have you done such work in
21 the past?

22 Yes, ma'am.

23 PROSPECTIVE JUROR: I work for the president
24 and in-house counsel of a real estate firm and they are
25 both attorneys.

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1 THE COURT: In what capacity do you work
2 there?

3 PROSPECTIVE JUROR: Executive assistant.

4 THE COURT: Yes, sir?

5 PROSPECTIVE JUROR: I am a lawyer. I'm
6 self-employed.

7 THE COURT: What is your practice?

8 PROSPECTIVE JUROR: It's a general practice.
9 I do some criminal work sometimes. I do immigration
10 work sometimes. I do divorces sometimes.

11 THE COURT: So you do a lot of different
12 types?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: I saw another hand. Yes, sir?

15 PROSPECTIVE JUROR: Myself or my family
16 member works for a lawyer?

17 THE COURT: If there's someone close to you.

18 PROSPECTIVE JUROR: My son works for Nassau
19 County, Emergency Managing office.

20 THE COURT: Is he an attorney?

21 PROSPECTIVE JUROR: No, he's a civilian
22 officer.

23 THE COURT: I have to ask this question. Is
24 everyone in the jury box at least 18 years of age?

25 Are you all residents of Nassau County and

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1 citizens of the United States?

2 Has anyone ever had a dispute with a police
3 officer or other law enforcement officer?

4 Now, the attorneys have advised me the
5 following people may be called as witnesses in this
6 case and I'll read them to you now: Doctor Michael
7 DeMartino; Doctor Gerard Catanese, Doctor Thomas
8 Manning, Doctor Arlene Colon, each of them are employed
9 by the Nassau County Medical Examiner; Detective Jack
10 McHugh, Detective Brian Parpan, Detective Scott Kovar;
11 Detective Vito Shiraldi, Detective Kevin McCarthy,
12 Detective James Cerghino, Detective Dennis Downes,
13 Detective Jerl Mullen, Detective Warren Zimmerman,
14 Detective Robert Dempsey, Detective Charles Costello,
15 Detective Ron Brusseau, Police Officer Pamela Stark,
16 Police Officer Raymond Wadsworth, Sergeant Michael Cole
17 and Detective/Sergeant Neil Delargi. Each one of them
18 are employed by the Nassau County Police Department.
19 Meghan Clement is employed by the Laboratory
20 Corporation of American. Bruce Budowle and Carlo
21 Rossotti are employed by the Federal Bureau of
22 Investigation. Additionally, Gerry Connell, Martin
23 Barten, John Williams, Lisa Lawson, John Kane, Francine
24 Quinn, Thomas Hardman, Bill DeLuso, Thomas Armour, Bill
25 Nimo, Robert Gunther, Penny Shouse, Mohammed Hussain,

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1 Pat Buffalino, Sven Brost, Carolyn Daly, John Williams,
2 Robert White, Ross O'Boyle, Adam Stiglie, Frank
3 DeFalco, Melissa Notarnicola, Doug Leung, Ceron Smith,
4 Jennifer DeRenzis, Nicholas Patrako (phonetic), Ellen
5 Scrimo, Dee Freed (phonetic), Jay Hardman, Ed Morrison,
6 Sal Pacolla (phonetic), Tina Melacello (phonetic), Lee
7 Barrow (phonetic), Bob Hilina (phonetic), Linda Russo,
8 Chris Shinklestead (phonetic), Charles Ross, Keith
9 Wilson, S. Domeraski (phonetic), Mark Hecht (phonetic),
10 Mike Kolass (phonetic), Charles Ball, Doctor Howard
11 Baum from the New York City -- chief medical examiner
12 and Doctor Phillip Raffi (phonetic).

13 Is there anyone who knows any of these
14 people?

15 Does anyone in the jury box know anything
16 about this case?

17 Has anyone talked to you about this case?

18 Has anyone read anything about this case in
19 any newspapers, magazines or other publications? Has
20 anyone heard or seen anything at all about this case
21 from radio or television programs?

22 Now, you've all previously heard my order and
23 admonitions that you are not to speak about this case
24 amongst yourselves, that you are not to permit anyone
25 to speak about it with you, that you are not to read

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1 any newspapers, listen to any radio programs or follow
2 any television news programs or, perhaps, access the
3 internet with respect to this trial.

4 Will each of you promise me that you will
5 faithfully obey those admonishments of the Court if you
6 are chosen to serve as a trial juror?

7 Do any of you have an opinion as to the guilt
8 or innocence of this defendant as to any of the charges
9 contained in this indictment?

10 My next series of questions, ladies and
11 gentlemen, are specifically directed to your functions
12 and responsibilities should you be chosen to serve as a
13 trial juror. In this regard, my questions will
14 especially concern your willingness to follow my
15 instructions on the law.

16 Now, of course, in order for you to be jurors
17 in the case, you don't have to know anything about the
18 law. That's my function to explain the law to you.
19 It's your function to determine the facts from all of
20 the evidence and apply the law to those facts and
21 thereby render a fair and just verdict.

22 If you are selected as a trial juror, I will
23 explain the law in detail to you at the end of the
24 case, but, as you will appreciate, it's important to
25 know at this stage that you will follow and apply the

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1 laws as I give them to you.

2 I will, therefore, describe some of the basic
3 and fundamental principles of the law in order to make
4 sure that you will be ready, willing and able to follow
5 and apply these laws in arriving at your ultimate
6 verdict.

7 For example, it is our law that an indictment
8 is not evidence. The mere fact that the defendant has
9 been indicted is not evidence of anything. In
10 particular, it is not evidence of the defendant's
11 guilt.

12 Should you be chosen to serve as a trial
13 juror, the law requires that you decide this case
14 wholly and solely upon all the evidence or lack of
15 evidence. Therefore, since it is our rule of law that
16 the indictment is evidence of nothing, I now ask, will
17 you each promise me that you will follow that rule of
18 law?

19 It is our law that your final verdict or
20 verdicts must be unanimous. Twelve jurors seldom agree
21 immediately and you will, therefore, at the end of the
22 trial, be called upon to deliberate together.

23 Will everyone on the jury promise me that at
24 the time your deliberation commences you will each
25 participate in those deliberations, express your own

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1 views, and reason together with your fellow jurors in
2 order to arrive at your final verdict or verdicts?

3 In other words, will you promise the
4 defendant and the People that you are willing
5 to participate in the deliberations, express your views
6 based on all the evidence in the case, keep an open
7 mind and listen to the views of your fellow jurors and
8 reason together until you arrive at your unanimous
9 final verdict or verdicts?

10 Now, under our law, every person accused of a
11 crime and brought to trial is presumed innocent unless
12 or until he is proved guilty beyond a reasonable doubt.
13 The defendant here is presumed innocent. Put another
14 way, a defendant is never required to prove his or her
15 innocence. On the contrary, the People, having accused
16 the defendant of the crimes charged, have the burden of
17 proving the defendant guilty beyond a reasonable doubt.

18 Further, this burden of proof never shifts.
19 It remains on the People and the presumption of
20 innocence remains with the defendant throughout the
21 trial.

22 Is there any one among you who cannot now in
23 their own mind grant to this defendant this presumption
24 of innocence?

25 Will you promise me that you will apply this

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1 presumption of innocence throughout the trial and you
2 will wait until you have heard all of the evidence and
3 retired for your final deliberations before you decide
4 upon your final verdict or verdicts?

5 Stated otherwise, will you promise me that
6 you will apply the presumption of innocence unless and
7 until you are convinced of the defendant's guilt beyond
8 a reasonable doubt?

9 Now, before rendering its verdict, the jury
10 must hear all of the evidence. This is another way of
11 saying that the jury must be patient, listen to the
12 evidence and wait until they have heard all of the
13 evidence before rendering their final verdict.

14 Will you all promise me that you will be
15 patient and wait until you have heard all the evidence,
16 wait until you have heard the summations of counsel and
17 my final instructions to you, and wait until you have
18 deliberated together in the jury room before rendering
19 your verdict or verdicts?

20 In a criminal case the burden of proof is
21 entirely on the People and remains on the People
22 throughout the trial. The defendant is not required to
23 prove anything, nor is the defendant required to
24 disprove anything. Again, the entire burden is on the
25 People and remains on the People throughout the trial.

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1 Is there anyone here that will have
2 difficulty following that rule of law and will you
3 promise me that you will follow that rule of law?

4 Since in a criminal case the defendant need
5 not prove anything, there is no requirement that a
6 defendant testify on his other her own behalf. If
7 Paul Scrimo does not testify that fact is not a factor
8 from which any inference unfavorable to the defendant
9 may be drawn.

10 Does anyone have any difficulty following
11 that rule of law?

12 Now, the standard of proof required by law
13 for conviction in every criminal case is proof of guilt
14 beyond a reasonable doubt. That standard, however,
15 does not require the People to prove the defendant's
16 guilt beyond all possibility of doubt or beyond a
17 shadow of a doubt. It requires the People to establish
18 the defendant's guilt beyond a reasonable doubt.

19 Our law, therefore, requires that before this
20 jury may convict the defendant, each of you must be
21 satisfied that all of the credible evidence convinces
22 you beyond a reasonable doubt that the defendant is in
23 fact guilty.

24 The evidence must satisfy you beyond a
25 reasonable doubt that the defendant is in fact the

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1 person that committed the crimes charged.

2 The evidence must also establish beyond a
3 reasonable doubt each and every essential element of
4 the crimes charged, as I shall later define such
5 elements to you.

6 What does the law mean when it requires proof
7 of guilt beyond a reasonable doubt? In other words,
8 when is a doubt of guilt reasonable under our law?

9 A doubt of the defendant's guilt, to be a
10 reasonable doubt, must be a doubt for which some reason
11 can be given. The doubt, to be reasonable, must,
12 therefore, arise because of the nature and quality of
13 the evidence in the case or from the lack or
14 insufficiency of the evidence in the case.

15 For a doubt to be a reasonable doubt, it
16 should be a doubt which a reasonable person acting in a
17 matter of this importance would be likely to entertain
18 because of the evidence or because of the lack or
19 insufficiency of the evidence in the case.

20 A doubt of guilt is not reasonable, if,
21 instead of being based on the nature and quality of the
22 evidence or lack of the evidence, it is based upon some
23 a guess or whim or speculation unrelated to the
24 evidence in the case.

25 Also, a doubt of guilt is not a reasonable

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1 doubt if it is based merely on sympathy for the
2 defendant or from a mere desire by a juror to avoid a
3 disagreeable duty.

4 I repeat, a doubt of a defendant's guilt, to
5 be a reasonable doubt, must arise either from the
6 nature and quality of the evidence in the case or from
7 the lack or insufficiency of the evidence in the case.

8 Therefore, the first duty of each juror is to
9 consider and weigh all of the evidence in the case and
10 decide what evidence you believe is credible and worthy
11 of your consideration.

12 The next duty of each juror is to determine
13 whether the case has been proved beyond a reasonable
14 doubt of the defendant's guilt as that term is defined
15 in our law.

16 A reasonable doubt, our law says, is an
17 actual doubt, one which you are conscious of having in
18 your mind after you have considered all the evidence in
19 the case. If, after doing so, you then feel uncertain
20 and not fully convinced of the defendant's guilt and
21 you are also satisfied that in entertaining such doubt
22 you are acting as a reasonable person should act in a
23 matter of this importance, then that is a reasonable
24 doubt of which the defendant is entitled to the
25 benefit.

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1 I repeat, it is the duty of each juror to
2 carefully review, weigh and consider all the evidence
3 in the case. If, after doing so, you find that the
4 People have not proved the defendant's guilt beyond a
5 reasonable doubt, as I have defined the term to you,
6 then you must find the defendant not guilty.

7 On the other hand, if you are satisfied the
8 People have proved the defendant's guilt beyond a
9 reasonable doubt, as have I defined that term to you,
10 you must then find the defendant guilty.

11 Will you now promise me that in your final
12 deliberations you will follow and apply the standard of
13 proof, that is, beyond a reasonable doubt, exactly as I
14 shall further explain and define that term to you in my
15 final charge?

16 Now, as you heard earlier, it is anticipated
17 that one or more police officers will testify in this
18 case. Will you promise me that you will give the same
19 evenhanded scrutiny to the testimony of a police
20 officer as you give to that of any other witness?

21 This is another way of asking whether or not
22 you will evaluate the credibility of a police officer
23 just like any other witness.

24 Now, each witness' testimony must be weighed
25 upon its own merits. Every defendant must be judged

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1 solely upon the evidence. All of us are aware we may
2 have prejudices or sympathies. Some of you may have
3 had unpleasant experiences which may lead you to
4 believe that members of certain groups are more honest
5 or less honest or are more or less likely to commit a
6 crime or are more or less likely to commit a particular
7 crime or are more or less likely to be wrongly accused.

8 It is our law that the trial jury must decide
9 each case solely and wholly upon the evidence and upon
10 the evidence alone. It is our law that the trial jury
11 must decide and render a verdict fairly and impartially
12 without reference to race, creed or color and without
13 fear, without favor and without sympathy.

14 Since neither bias nor prejudice nor sympathy
15 can be allowed to interfere with your deliberations in
16 the jury room, I ask you if there is any one here who
17 thinks that they might have such feelings, favorable or
18 unfavorable, about the defendant or about any other
19 witness or any other person involved in this trial?

20 If you have such feelings, you are bound by
21 your oath to say so.

22 Seeing no response, I will ask each one of
23 you, will you be able to decide this case solely on the
24 evidence without fear, favor or sympathy either for the
25 defendant or for the People?

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1 Will you bring in a verdict based solely on
2 the evidence and the evidence alone?

3 Now, our law requires that I advise you,
4 ladies and gentlemen of the prospective jury panel,
5 that you are not, and I repeat not, during your
6 deliberations to consider the subject of punishment.
7 Sentencing lies solely within the exclusive province of
8 the Court and the jury has no role to play.

9 You are not permitted to consider the
10 possibility of punishment or penalty in your
11 deliberations and you may not include any
12 recommendation as to sentence in your verdict.

13 Thus, you will see that as trial jurors you
14 are the sole and exclusive judges of the facts and the
15 facts alone. The Court is the sole and exclusive judge
16 of the law and of any sentence, punishment or penalty
17 to be imposed following the rendering of your verdict.

18 Will you promise me that you will render your
19 verdict free from fear, favor or sympathy and without
20 considering any possibility of sentence or punishment?

21 Ladies and gentlemen, it is our law that you,
22 as trial jurors, you are the sole and exclusive judges
23 of the facts. Thus, for example, nothing that the
24 lawyers will say during the trial is evidence. As a
25 matter of fact, nothing that I say will be evidence.

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1 You and you alone will decide from all of the
2 evidence what the facts are in this case. At the same
3 time, nothing that the lawyers say is the law. It is
4 the responsibility of the Court to advise all concerned
5 as to the law that will be applicable in this case.

6 To put it another way, when you raise your
7 hands to take your oath as jurors and when I took my
8 oath as judge, we agree to follow, obey and apply the
9 law of the State of New York exactly as given to us by
10 the Legislature and as set forth in our Constitution.

11 This simply means that, whether you have any
12 ideas of your own of what the law is or what you think
13 it ought to be, you must now, under your oath, cast
14 aside your own ideas of the law.

15 Now, upon your oath as jurors, you must
16 accept the law as I explain it to you, whether you
17 agree with it or not, and apply that law to the facts
18 as you find the facts to be in this case.

19 Therefore, I ask you, will you accept the law
20 as given to you by me and will you apply the law to the
21 facts as you find the facts to be in this case?

22 Let me ask, will you be intimidated or
23 embarrassed in any way by the presence of spectators at
24 this trial?

25 Do each you now have a state of mind that

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1 will permit you to examine and assess the testimony
2 honestly, carefully, fairly, impartially and without
3 fear, favor or sympathy either to the People or to the
4 defendant?

5 Finally, do you know of any reason in your
6 own best conscience or good judgment why you could not
7 serve as a fair and impartial juror?

8 Yes, ma'am.

9 PROSPECTIVE JUROR: With all due respect and
10 deference to the Court, Judge, I myself in the early
11 '80s was assaulted and went through the whole grand
12 jury thing.

13 THE COURT: I understand. I will be
14 questioning each of the jurors individually and we'll
15 take that up at that time.

16 PROSPECTIVE JUROR: Thank you.

17 THE COURT: We'll start with Steven Adamo.
18 How are you, sir?

19 PROSPECTIVE JUROR: Fine.

20 THE COURT: You have to keep your voice up,
21 everybody.

22 You have checked off that you have friends in
23 law enforcement or relatives. Can you tell us about
24 that, please?

25 PROSPECTIVE JUROR: My son who lives in

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1 Indiana works for a juvenile correctional facility.

2 THE COURT: You checked something off here.

3 Do you want to tell us from there --

4 PROSPECTIVE JUROR: That's fine.

5 THE COURT: -- about the convictions?

6 PROSPECTIVE JUROR: On my wife's side, a
7 nephew was convicted of drug abuse and drug peddling.

8 THE COURT: Where was that?

9 PROSPECTIVE JUROR: In Nassau County. I
10 think, in Freeport.

11 THE COURT: How long ago was that?

12 PROSPECTIVE JUROR: A good ten years, sir.

13 THE COURT: Do you understand that the same
14 district attorney's office that prosecuted your wife's
15 nephew is also prosecuting this case? Will that
16 present a problem to you?

17 PROSPECTIVE JUROR: No, sir.

18 THE COURT: Now, you've heard all the
19 questions. Can you be a fair and impartial juror in
20 this case?

21 PROSPECTIVE JUROR: Yes, I can.

22 THE COURT: Thank you, sir.

23 Russell Davidson?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: How are you today?

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1 PROSPECTIVE JUROR: Fine.

2 THE COURT: You also have friends in law
3 enforcement or relatives. Tell us about that.

4 PROSPECTIVE JUROR: My son works for Nassau
5 County Police, emergency management.

6 THE COURT: Yes, you told us about him
7 before. Anybody else?

8 PROSPECTIVE JUROR: That's it.

9 THE COURT: You checked off victim of a
10 crime. Can you tell us about that?

11 PROSPECTIVE JUROR: I was robbed at gunpoint
12 about five years ago.

13 THE COURT: Was anybody caught as a result of
14 that?

15 PROSPECTIVE JUROR: No. The person is still
16 out there.

17 THE COURT: You have heard all the questions
18 asked. Can you be a fair and impartial juror in this
19 case?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Ladies and gentlemen, the
22 reporter has to take down what you say so you have to
23 keep your voices up.

24 PROSPECTIVE JUROR: There's another victim.
25 My son who was a Nassau County auxiliary at the time,

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1 he was shot in a drive-by and is now blind in one eye
2 so he can't be on the force. That's why he works as a
3 civilian officer.

4 THE COURT: Was anybody caught as a result of
5 that?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Are you, as a result of that
8 incident, upset that the police did not do their job
9 and catch this person? Does that upset you?

10 PROSPECTIVE JUROR: No. They did the best
11 they could.

12 THE COURT: So you could be a fair and
13 impartial juror in this case?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Patrick Enz, how are you?

16 PROSPECTIVE JUROR: Good.

17 THE COURT: You checked off a lot of no
18 boxes. You left one blank about relatives in law
19 enforcement, friends?

20 PROSPECTIVE JUROR: I missed it.

21 THE COURT: Do you have any?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Now, you've heard all the
24 questions. Can you be a fair and impartial juror in
25 this case?

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1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Thank you, sir.

3 Mitchell White.

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Hi.

6 PROSPECTIVE JUROR: Hi.

7 THE COURT: How are you?

8 PROSPECTIVE JUROR: Fine.

9 THE COURT: You are a physician's assistant?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: You work with physicians, I take
12 it, in your practice?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: There's going to be medical
15 testimony here and, obviously, you have been trained as
16 a physician's assistant. If you are in the jury room
17 and they start to talk about the medical evidence and I
18 tell you the law is you cannot use your own expertise
19 with respect to -- you're only allowed to use your own
20 common sense but you can't use your specialized
21 knowledge with respect to jury deliberations, will you
22 be able to follow that law?

23 PROSPECTIVE JUROR: Sure.

24 THE COURT: You checked -- you have a lot of
25 nos. Let me ask you this. Can you be a fair and

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1 impartial juror in this case?

2 PROSPECTIVE JUROR: Yes, I can.

3 THE COURT: Thank you.

4 Larry Williams, how are you, sir?

5 PROSPECTIVE JUROR: Okay. Thank you.

6 THE COURT: You checked -- you have a lot of
7 nos too. You've heard all the questions asked?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Can you be a fair and impartial
10 juror in this case?

11 PROSPECTIVE JUROR: Possibly.

12 THE COURT: Possibly?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: You have to be a little bit more
15 sure than that. You can't be equivocal, as they say.

16 PROSPECTIVE JUROR: Yes, I can be.

17 THE COURT: This is the only time myself and
18 the jurors -- excuse me, attorneys, get to talk to you
19 about your qualifications as a juror and there are no
20 right or wrong answers. It's just a matter of what
21 your feelings are so you have to express them to us.
22 Is there something that's bothering you?

23 PROSPECTIVE JUROR: No. I could be.

24 THE COURT: You understood everything I said
25 with respect to the law? Can you follow the law as I

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1 would charge it?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: And listen to the facts as they
4 come from the witness stand, look at the evidence and
5 exhibits placed into evidence?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: And you could sit with your
8 fellow jurors and reason with them and come to a well
9 reasoned verdict?

10 PROSPECTIVE JUROR: I think so.

11 THE COURT: I wasn't sure -- what was that
12 last answer?

13 PROSPECTIVE JUROR: Yes. Yes, I could.

14 THE COURT: Okay. Thank you.

15 Vincent, is it -- maybe you better say it?

16 PROSPECTIVE JUROR: Zucarelli.

17 THE COURT: The letters all come together
18 there. How are you today?

19 PROSPECTIVE JUROR: Good.

20 THE COURT: Now, you checked off victim of a
21 crime. Can you tell us about that?

22 PROSPECTIVE JUROR: I had my car broken into.
23 I am sure there have been other things but that was
24 pretty recent.

25 THE COURT: Anybody caught in that?

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1 PROSPECTIVE JUROR: No. I didn't even report
2 it.

3 THE COURT: Also party to a civil case?

4 PROSPECTIVE JUROR: I was involved in and
5 accident and it was settled through the insurance
6 companies.

7 THE COURT: There's another box you checked
8 yes. Can you tell us from there? Do you recollect
9 what you checked off?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Accused a crime?

12 PROSPECTIVE JUROR: Yeah, I've been accused
13 of things before.

14 THE COURT: If you can tell us from us there,
15 that's fine, or otherwise you can tell us at the bench
16 later.

17 PROSPECTIVE JUROR: Over 20 years ago when I
18 was in high school I was accused of a drug charge.

19 THE COURT: Did anything happen with respect
20 to that?

21 PROSPECTIVE JUROR: It was sealed, thrown out
22 and everything.

23 THE COURT: You've heard all the questions
24 that were asked of all the other jurors?

25 PROSPECTIVE JUROR: Yes.

Voir Dire - Court

1 THE COURT: Can you be a fair and impartial
2 juror in this case?

3 PROSPECTIVE JUROR: Sure.

4 THE COURT: Thank you.

5 Adam Wright, how are you, sir?

6 PROSPECTIVE JUROR: Fine.

7 THE COURT: You are an attorney?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: You checked off victim of a
10 crime. Can you tell us about that?

11 PROSPECTIVE JUROR: I was in New Jersey last
12 year. I was driving and my car was car jacked. They
13 found it about two or three days later.

14 THE COURT: Did they catch anybody with
15 respect to that crime?

16 PROSPECTIVE JUROR: No, they did not.

17 THE COURT: You also checked off party to a
18 civil case?

19 PROSPECTIVE JUROR: Yes. I have an
20 automobile action. I had an accident in 1999. It's
21 sill pending in Nassau.

22 THE COURT: You checked -- you have a couple
23 of other boxes?

24 PROSPECTIVE JUROR: I was on a jury case and
25 the clients had left town and the insurance company was

Voir Dire - Court

1 pressing me for a release and I signed their names and
2 they claimed it was attempted forgery. That was in
3 1995. It happened in the course of my practice.

4 THE COURT: So you were accused of something?

5 PROSPECTIVE JUROR: Yes, of signing their
6 names without permission, the client's.

7 THE COURT: Okay. You have heard all the
8 questions that were asked of all the other jurors. Can
9 you be a fair and impartial juror in this case?

10 PROSPECTIVE JUROR: Yes, I can. There are
11 other matters too. I have a lot of cases coming up
12 next week.

13 THE COURT: Are you a sole practitioner?

14 PROSPECTIVE JUROR: Yes, I am. There are
15 about ten or eleven of them coming up next week,
16 immigration appearances. I haven't made any plans at
17 all for obtaining a substitute attorney to go in so I
18 am kind of concerned about that. It's weighing heavily
19 on my mind.

20 THE COURT: Thank you, sir.

21 Robert Froehlich, hello.

22 PROSPECTIVE JUROR: Hello.

23 THE COURT: How are you?

24 PROSPECTIVE JUROR: Good.

25 THE COURT: You checked off a lot of no boxes

Voir Dire - Court

1 too. You have heard all the questions asked?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Can you be a fair and impartial
4 juror in this case?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Thomas Fulfaro?

7 PROSPECTIVE JUROR: Morning.

8 THE COURT: How are you?

9 PROSPECTIVE JUROR: Fine. Thank you.

10 THE COURT: You have friends in law
11 enforcement?

12 PROSPECTIVE JUROR: Yes, a friend who is a
13 former New York City police officer, a friend who is a
14 New York State trooper and a friend on my father's
15 cousin -- on my father's side who is a New York City
16 police officer.

17 THE COURT: Witness to a crime?

18 PROSPECTIVE JUROR: Victim and witness. When
19 I was in college, I worked for a movie theater and,
20 while doing a bank job at night, myself and coworker
21 were robbed.

22 THE COURT: Was anybody caught in that case?

23 PROSPECTIVE JUROR: I don't believe so.

24 THE COURT: You have heard all the questions
25 asked. Can you be a fair and impartial juror in this

Voir Dire - Court

1 case?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: Thank you.

4 Arnold Gamberg, how are you, sir?

5 PROSPECTIVE JUROR: Good, sir.

6 THE COURT: You checked off victim of a
7 crime. Can you tell us about that?

8 PROSPECTIVE JUROR: A family member.

9 THE COURT: What happened?

10 PROSPECTIVE JUROR: Murder.

11 THE COURT: How long ago was that?

12 PROSPECTIVE JUROR: 1981.

13 THE COURT: Now, you understand that the
14 allegations in the indictment here are murder. Do you
15 think you could sit on a murder case?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: That won't bother you?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Can you be a fair and impartial
20 juror in this case?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: Thank you.

23 Mary George?

24 PROSPECTIVE JUROR: Hi.

25 THE COURT: How are you?

Voir Dire - Court

1 PROSPECTIVE JUROR: I am fine.

2 THE COURT: You too have checked off a lot of
3 no boxes. There's nothing specific I have to ask you.
4 Generally, you have heard all the questions asked?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Can you be a fair and impartial
7 juror in this case?

8 PROSPECTIVE JUROR: I can, but one problem,
9 my brother is in ICU in New York City. I don't know if
10 you can excuse me for that.

11 THE COURT: He's in the intensive care unit?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: You're afraid you won't be able
14 to focus on the case because you're thinking about your
15 brother, is that true?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: I understand. Thank you.

18 Barbara Gersten, how are you?

19 PROSPECTIVE JUROR: Fine.

20 THE COURT: You checked off victim of a
21 crime. Tell us about that?

22 PROSPECTIVE JUROR: My house was robbed.

23 THE COURT: Do you mean burglarized?

24 PROSPECTIVE JUROR: Burglarized.

25 THE COURT: How long ago was that?

Voir Dire - Court

1 PROSPECTIVE JUROR: Four years ago.

2 THE COURT: Anybody caught?

3 PROSPECTIVE JUROR: They knew who they were
4 but they were young -- they were kids so nothing ever
5 happened with that.

6 THE COURT: Did they go through the court
7 system?

8 PROSPECTIVE JUROR: No. The police suggested
9 that they don't.

10 THE COURT: Were you upset with the police as
11 a result of that?

12 PROSPECTIVE JUROR: I was upset with my house
13 being burglarized, but no.

14 THE COURT: Now, you've heard all the
15 questions asked. Can you be a fair and impartial juror
16 in this case?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Victoria Grambrone?

19 PROSPECTIVE JUROR: That's right.

20 THE COURT: You wrote quite a few things on
21 here. Let me see. Let's work from the bottom up. You
22 say you have no faith in the judicial system. You have
23 sat as a juror before?

24 PROSPECTIVE JUROR: No, I haven't. Just from
25 what has happened with my assault and my niece who was

Voir Dire - Court

1 assaulted and held up at gunpoint who identified the
2 guy and he got off on a technicality or dismissal. She
3 was terrified. She was in college. It happened in her
4 apartment building in her garage. She moved out of
5 state to Georgia and finished college there. She
6 hasn't been the same. Frankly, I have a bad taste in
7 my mouth.

8 THE COURT: How long ago was this?

9 PROSPECTIVE JUROR: Three years ago.

10 THE COURT: As a result of that, you're upset
11 with the court system?

12 PROSPECTIVE JUROR: That's right.

13 THE COURT: Are you upset with the police
14 department?

15 PROSPECTIVE JUROR: The whole thing,
16 attorneys as well. You know, you say your side of the
17 story, you want your truth to be told and the other
18 side wants that the truth to be told and there's the
19 gray area of truth. I don't know I can be impartial
20 because I don't really trust the system, frankly.
21 Sorry, but that's how I feel.

22 THE COURT: That's okay. That's why we have
23 the voir dire process. Not every case is for every
24 person and not every person can sit on a criminal case
25 and I appreciate your input. Thank you.

Voir Dire - Court

1 Hector Henry, how are you, sir?

2 PROSPECTIVE JUROR: Pretty good.

3 THE COURT: Now, you checked off victim of a
4 crime. Can you tell us about that?

5 PROSPECTIVE JUROR: My sister was robbed
6 coming home from work one night.

7 THE COURT: How long ago was that?

8 PROSPECTIVE JUROR: Like ten years ago.
9 Someone snatched her pocket book and ran off.

10 THE COURT: Anybody caught?

11 PROSPECTIVE JUROR: No.

12 THE COURT: You have heard all the questions
13 that were asked. Can you be a fair and impartial juror
14 in this case?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Thank you.

17 Counsel, approach the bench.

18 (Whereupon, the following took place at the
19 bench outside of the hearing of the prospective
20 jurors and defendant.)

21 THE COURT: I understand, counsel, that you
22 each consent to excuse Victoria Grambrone?

23 MR. BIANCAVILLA: Consent.

24 MR. CHAMBERLAIN: Consent.

25 (Whereupon, the following took place in open

Voir Dire - Court

1 court.)

2 THE CLERK: Victoria Grambrone, step out and
3 follow the instructions of the officer.

4 (Whereupon, one prospective juror was excused
5 and exited the courtroom.)

6 THE CLERK: If your name is called, please
7 bring your property with you. Joan Defiglia, please
8 hand your paperwork up to the officer.

9 THE COURT: Joan Defiglia, how are you today?

10 PROSPECTIVE JUROR: I'm good, but you don't
11 remember me, do you. I'm from your chiropractor's
12 office.

13 THE COURT: It's been a long time. I guess
14 you don't work for him anymore?

15 PROSPECTIVE JUROR: No.

16 THE COURT: That has to be eight years ago.
17 You work for a CPA. You checked off that you swerved
18 on a trial before?

19 PROSPECTIVE JUROR: It was, I guess, about
20 eight years ago.

21 THE COURT: Was that here in Nassau County?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Did you get to deliberate?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: And did you reach a verdict?

Voir Dire - Court

1 PROSPECTIVE JUROR: Not guilty.

2 THE COURT: We are not interested in the
3 verdict, just whether you reach a verdict.

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Was it a good jury experience for
6 you?

7 PROSPECTIVE JUROR: Yes, it was.

8 THE COURT: Now, you've heard all the
9 questions asked. Can you be a fair and impartial juror
10 in this case?

11 PROSPECTIVE JUROR: I'm not sure.

12 THE COURT: Can you tell us why? Is it the
13 type of case or is it something specific?

14 PROSPECTIVE JUROR: It might be the
15 defendant. It might be just -- since September 11th, I
16 have really not had real good feelings about too many
17 people.

18 THE COURT: You're saying you can't sit on a
19 criminal case?

20 PROSPECTIVE JUROR: I don't know if I could.

21 THE COURT: You heard what I said with
22 respect to the law. Could you follow the law as I
23 would charge it?

24 PROSPECTIVE JUROR: I would try to the best
25 of my ability.

Voir Dire - Court

1 THE COURT: But you can't guarantee that you
2 would follow the law?

3 PROSPECTIVE JUROR: No. No, because I too
4 don't have too much faith in the judicial system.

5 THE COURT: Okay. Thank you.

6 Counsel, come forward, please.

7 (Whereupon, the following took place at the
8 bench outside of the hearing of the prospective jurors
9 and the defendant.)

10 THE COURT: We have a consent?

11 MR. BIANCAVILLA: Consent.

12 MR. CHAMBERLAIN: Consent.

13 (Whereupon, the following took place in open
14 court.)

15 THE CLERK: Joan Defiglia, you are excused
16 with the thanks of the court. Step out and follow the
17 court officer's instructions.

18 (Whereupon, the prospective juror was excused
19 and exited the courtroom.)

20 THE CLERK: Margaret Santoriello.

21 THE COURT: Margaret Santoriello?

22 PROSPECTIVE JUROR: Close enough.

23 THE COURT: I try. Let's see, you checked
24 off a whole bunch of no boxes. Generally, let me ask
25 you, you've heard all the questions asked, can you be a

Voir Dire - Court

1 fair and impartial juror in this case.

2 PROSPECTIVE JUROR: Yes, I can.

3 THE COURT: Thank you.

4 Ladies and gentlemen, we have been going a
5 while now so I'm going to take a break for lunch at
6 this point and ask you all to be back here a little
7 before two o'clock so we can start as close to two
8 o'clock as possible and then the attorneys will get to
9 speak to those who are in the box.

10 Again, ladies and gentlemen, I am directing,
11 and I will be admonishing you each and every time we
12 break, that you are not to discuss or converse amongst
13 yourselves or with anyone else upon any subject
14 connected with this trial.

15 You must not read or listen to any account or
16 discussion of this case in the event it is reported by
17 newspapers or in any other media and that includes the
18 internet.

19 You must not visit or view the premises or
20 place where the offenses charged were allegedly
21 committed or any other premise or place involved in
22 this case.

23 You must promptly report to the Court any
24 incident within your knowledge involving any attempt by
25 any person to improperly influence any member of the

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1 jury.

2 Do not visit any other courtroom in this
3 building or any other building. Have a nice lunch and
4 we'll see you at two o'clock.

5 (Whereupon, the sworn jurors exited the
6 courtroom.)

7 THE COURT: Counsel, see you at 2:00.

8 (Whereupon, a luncheon recess was taken.)

9 A F T E R N O O N S E S S I O N

10 COURT OFFICER: Jurors entering.

11 (Whereupon, the panel of prospective jurors
12 entered the courtroom and resumed their respective
13 seats.)

14 THE COURT: Good afternoon, ladies and
15 gentlemen. We are ready to continue with the voir dire
16 process. We will commence now with Mr. Biancavilla.

17 (Whereupon, voir dire examination,
18 unrecorded, was conducted by the assistant district
19 attorney and defense counsel.)

20 (Whereupon, the following took place at the
21 bench.)

22 THE COURT: Mr. Gamberg, you indicated you
23 wanted to approach the bench and say it outside the
24 hearing of the other jurors.

25 PROSPECTIVE JUROR: Two things. One is, when

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Voir Dire - Court

1 we first got selected this morning, I wasn't very
2 comfortable but I thought I would try. I have a
3 brother murdered in 1981. It was an older brother.

4 THE COURT: Will that bring back bad memories
5 for you?

6 PROSPECTIVE JUROR: It was horrible
7 situation. I also just got a brand new position I just
8 started. Between the two --

9 THE COURT: Okay. Sir, have a seat for a
10 moment.

11 MR. BIANCAVILLA: Consent.

12 MR. CHAMBERLAIN: Consent.

13 (Whereupon, the following took place in open
14 court.)

15 THE CLERK: Mr. Gamberg, you are excused with
16 the thanks of the Court.

17 (Whereupon, the prospective juror was excused
18 and exited the courtroom.)

19 (Whereupon, voir dire examination, not
20 recorded, continued.)

21 (Whereupon, the following took place at the
22 bench.)

23 THE CLERK: Do the People have any challenges
24 for cause, one through four?

25 MR. BIANCAVILLA: No.

Voir Dire - Court

1 THE CLERK: Challenges for cause, one through
2 four, by defense counsel?

3 MR. CHAMBERLAIN: Two.

4 THE COURT: Granted.

5 THE CLERK: Any further challenges for cause
6 by defense counsel, numbers one through four only?

7 MR. CHAMBERLAIN: No.

8 THE CLERK: Do the People wish to exercise a
9 peremptory on one, three or four.

10 MR. BIANCAVILLA: No.

11 THE CLERK: Defense counsel, do you wish to
12 exercise a peremptory challenge as to one, three or
13 four?

14 MR. CHAMBERLAIN: Four. No. Wait. Give me
15 a second.

16 THE COURT: Sure.

17 MR. CHAMBERLAIN: I'm going with four.

18 THE COURT: Just four. So we will swear one
19 and three.

20 THE CLERK: Mr. Adamo will be juror number
21 four and Patrick Enz will be juror number 10.

22 People, challenges for cause as to number
23 five and six?

24 MR. CHAMBERLAIN: Five.

25 THE CLERK: Challenge for cause, number five?

Voir Dire - Court

1 THE COURT: Granted.

2 THE CLERK: Defense counsel, do you have any
3 challenges for cause as to number six?

4 MR. CHAMBERLAIN: No.

5 THE CLERK: Do the people wish to exercise a
6 peremptory challenge as to number six?

7 MR. BIANCAVILLA: No.

8 THE CLERK: Defense counsel?

9 MR. CHAMBERLAIN: No.

10 THE COURT: Juror number six will be sworn as
11 juror number 11.

12 THE CLERK: Do the People have any challenges
13 for cause as to juror number seven?

14 MR. BIANCAVILLA: Yes.

15 THE COURT: My notes, with respect to
16 Mr. Wright, was that he was a sole practitioner, an
17 attorney who has lots of cases on next week with
18 respect to immigration and naturalization. I think his
19 mind may be elsewhere.

20 MR. CHAMBERLAIN: No question, Judge. He
21 doesn't want to be here, but you know the rules I
22 thought we were following. He may have been able to
23 get excused.

24 THE COURT: The test, Mr. Chamberlain, is
25 whether he can be a fair and impartial juror even

Voir Dire - Court

1 though he has knowledge of those cases on and knowing
2 he would not be able to handle them.

3 MR. CHAMBERLAIN: My notes indicate he could
4 be fair but has a number of cases next week. I think
5 he repeated he could be fair to me and to your Honor.
6 I think he said he could be fair and follow the laws.

7 THE COURT: I am granting that, cause.

8 THE CLERK: People, challenge for cause as to
9 number eight?

10 MR. BIANCAVILLA: No.

11 THE CLERK: Defense counsel, challenge for
12 cause, number eight.

13 MR. CHAMBERLAIN: I seriously doubt, Judge --
14 I will have a challenge for cause. He told us he could
15 be fair and impartial. But, on the other hand, I
16 question the ability of this juror to do both things.
17 I think he would have a hard time sitting here and
18 following the Court's instructions based on answers he
19 gave. He's talking about going to school every night
20 for the next two weeks.

21 THE COURT: First of all, he said he would be
22 going to school Wednesday and had to be there at
23 five o'clock and the second Wednesday, which would be a
24 week from this Wednesday, he said he had a test.
25 During Mr. Biancavilla's questioning, he said he was

Voir Dire - Court

1 sure he would be able to make the test. He said he
2 didn't have a problem if he was late for class with
3 respect to this Monday so that not a reason.

4 The answers that Mr. Froehlich gave were that
5 he could be fair and impartial. There is nothing that
6 he testified to that would convince me I should excuse
7 him for cause.

8 THE CLERK: Do the People wish to exercise a
9 peremptory challenge as to number eight?

10 MR. BIANCAVILLA: No.

11 THE CLERK: Defense counsel?

12 MR. CHAMBERLAIN: Yes.

13 THE CLERK: People, challenges for cause as
14 to number nine?

15 MR. BIANCAVILLA: No.

16 THE CLERK: Defense, challenges for cause as
17 to number nine?

18 MR. CHAMBERLAIN: No.

19 THE CLERK: People, do you wish to exercise a
20 peremptory challenge as to juror number nine?

21 MR. BIANCAVILLA: No.

22 THE CLERK: Defense counsel, peremptory as to
23 nine?

24 MR. CHAMBERLAIN: Yes.

25 THE CLERK: Do the People have a challenge

Voir Dire - Court

1 for cause as to juror number eleven?

2 MR. BIANCAVILLA: Yes.

3 MR. CHAMBERLAIN: Yes.

4 THE COURT: Yes, she said she would be
5 thinking about her brother who is in the hospital.
6 Granted on consent.

7 THE CLERK: People, challenge for cause as to
8 juror number twelve?

9 MR. BIANCAVILLA: No.

10 THE CLERK: Defense counsel, challenge for
11 cause as to juror number twelve?

12 MR. CHAMBERLAIN: No.

13 THE CLERK: Do the People wish to exercise --

14 MR. CHAMBERLAIN: Excuse me. Give me just
15 one second.

16 THE COURT: Of course, Mr. Chamberlain.

17 MR. CHAMBERLAIN: No.

18 THE COURT: Do the People wish to exercise a
19 peremptory challenge as to juror number twelve?

20 MR. BIANCAVILLA: No.

21 MR. CHAMBERLAIN: No.

22 THE COURT: Miss Gersten will be juror number
23 twelve.

24 Alternate number one, you each have two
25 challenges per seat.

Voir Dire - Court

1 THE CLERK: People, challenge for cause,
2 juror number thirteen?

3 MR. BIANCAVILLA: No.

4 MR. CHAMBERLAIN: No.

5 THE CLERK: Do the People wish to exercise a
6 peremptory challenge as to number thirteen?

7 MR. BIANCAVILLA: No.

8 MR. CHAMBERLAIN: No.

9 THE COURT: Alternate number one.

10 THE CLERK: Do the People wish to exercise a
11 challenge for cause as to fourteen?

12 MR. BIANCAVILLA: No.

13 THE CLERK: Defense?

14 MR. CHAMBERLAIN: No.

15 THE CLERK: Do the People wish to exercise a
16 peremptory challenge as to fourteen?

17 MR. BIANCAVILLA: Yes.

18 THE COURT: Counsel, I understand that you
19 have both agreed that prospective juror number nine,
20 Thomas Fulfaro will be alternate two?

21 MR. CHAMBERLAIN: Correct. I'll withdraw my
22 peremptory and agree to have him as alternate two.

23 MR. BIANCAVILLA: That is acceptable to the
24 People.

25 THE COURT: We now have a jury and two

Voir Dire - Court

1 alternates.

2 (Whereupon, the following took place in open
3 court.)

4 THE CLERK: Jurors, may I have your attention
5 please?

6 The following jurors have been selected to
7 serve on this jury. Steven Adamo will be juror number
8 four. Patrick Enz will be juror number ten. Vincent
9 Zucarelli will be juror number eleven. Barbara Gersten
10 will be juror number twelve. Margaret Santoriello will
11 be alternate one and Thomas Fulfaro will be alternate
12 number two.

13 If I did not call your name, gather your
14 belongings and step out of the box. You are excused
15 from the jury panel with the thanks of the Court.

16 (Whereupon, the prospective jurors were
17 excused and exited the courtroom.)

18 THE CLERK: Are the remaining jurors
19 satisfactory to the People?

20 MR. BIANCAVILLA: Yes.

21 THE CLERK: To the defense counsel?

22 MR. CHAMBERLAIN: Yes.

23 THE CLERK: Shall I swear them, Judge?

24 THE COURT: Yes.

25 (Whereupon, the jurors were duly sworn by the

Voir Dire - Court

1 clerk.)

2 THE COURT: I am first going to talk to the
3 newly sworn jurors. At this point, we are going to
4 excuse you and ask you to return here Monday morning at
5 9:30 when we will start the trial. However, let me
6 give you some advice. Parking is at a premium,
7 especially in the mornings. So I would suggest you get
8 here at 9:00 or around that time and go for coffee or
9 something so you can be in the courthouse where the
10 court officers tell you to report, which they will do
11 before you leave here today.

12 I want to remind you that -- and I will be
13 admonishing you each time we break. Do not discuss the
14 case amongst yourselves or with anyone else. Keep an
15 open mind. Do not form or express any opinions until
16 the entire case has been completed.

17 Do not read or listen to any accounts of the
18 case should they be reported in the media. Do not
19 visit or view any place or premises that have been
20 mentioned.

21 You are not to permit any party to discuss
22 the case with you or attempt to influence you, and you
23 must promptly report to the Court any violation
24 thereof.

25 Have a nice weekend. We will see you Monday

Voir Dire - Court

1 morning at 9:30.

2 (Whereupon, the sworn jurors exited the
3 courtroom.)

4 THE COURT: Now, let me address those of you
5 who never made it into the jury box. I want to tell
6 you we appreciate you and would not have been able to
7 go forward with this voir dire process unless you were
8 here ready, willing and able to serve as jurors. I
9 want to say we all thank you.

10 At this point, go back to central jury and
11 they'll tell you what to do from there. See the court
12 officers and they will explain more to you. Thank you
13 very much and have a nice weekend.

14 (Whereupon, the above matter was adjourned
15 until May 6th, 2002.)

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1 STATE OF NEW YORK : NASSAU COUNTY

2 SUPREME COURT PART XII

3 -----X

4 THE PEOPLE OF THE STATE OF NEW YORK Ind. 1456-00

5 - against -

6 PAUL SCRIMO

Trial

7 Defendant

8 -----X

9 May 6, 2002
10 262 Old Country Road
Mineola, New York

11 B E F O R E :

12 HON. JEFFREY S. BROWN,
13 County Court Judge

14 A P P E A R A N C E S:

15 HON. DENIS DILLON
16 Nassau County District Attorney
17 BY: ROBERT BIANCAVILLA, Esq., of Counsel,
Assistant District Attorney
18 For the People

19 JOHN CHAMBERLAIN, Esq.
20 1001 Franklin Avenue
Garden City, New York
21 For the Defendant

22
23 KATHLEEN PLAIA
24 OFFICIAL COURT REPORTER
25

Kathleen Plaia

1 THE CLERK: This is indictment number 1456N
2 of 2000, People of the State of New York versus Paul
3 Scrimo. On for trial.

4 All parties are present. Jurors are not
5 present at this time.

6 Are the People ready to proceed?

7 MR. BIANCAVILLA: Ready.

8 THE CLERK: Defense counsel ready to proceed?

9 MR. CHAMBERLAIN: Defendant ready.

10 THE COURT: Counsel, I'm ready to bring the
11 jury up. Anything you would like to place on the
12 record before I do that?

13 MR. BIANCAVILLA: Judge, just for the record,
14 we turned over this morning to Mr. Chamberlain several
15 items of Rosario material, seventy-two exhibits in
16 total. We would ask that he acknowledge receipt of
17 these exhibits.

18 In addition, we have given a copy of the
19 exhibit list to the Court. And we would ask that the
20 Court mark it as a court exhibit.

21 THE COURT: Mr. Chamberlain?

22 MR. CHAMBERLAIN: Yes, Judge. I have what
23 appears before me bound volumes, which I have not had a
24 chance to review. The exhibit list does list
25 seventy-two exhibits.

1 THE COURT: I thought you had an opportunity
2 to review some of the exhibit, Mr. Chamberlain.

3 MR. CHAMBERLAIN: Most of them, Judge.

4 I have had a chance to exhibit -- review,
5 rather, I'm sorry, your Honor, Exhibit 19 briefly;
6 Exhibit 50, which was three pages; Exhibit 51, one
7 page; and Exhibit 63, seventeen pages.

8 THE COURT: We'll mark the Rosario material
9 list as a court exhibit.

10 Counsel, I'm going to bring up the jury now.

11 MR. BIANCAVILLA: Thank you, Judge.

12 THE CLERK: This will be marked as Court
13 Exhibit II.

14 THE COURT: Court Exhibit II.

15 MR. CHAMBERLAIN: Judge, while we have a
16 minute --

17 THE COURT: Yes, Mr. Chamberlain?

18 MR. CHAMBERLAIN: I notice from the People's
19 Rosario material list that there are a number of
20 experts that are listed that I have yet to receive CVs
21 for. And I will move to preclude any expert that I
22 have not received CV.

23 THE COURT: Mr. Biancavilla.

24 MR. BIANCAVILLA: Judge, I don't think a CV
25 is Rosario material. We have turned over any notes or

1 memorandum or anything having to do with these
2 witnesses. Curriculum vitae or CV is not rosario
3 material, nor anything that is required to be produced
4 during discovery.

5 MR. CHAMBERLAIN: I would disagree with that,
6 Judge.

7 MR. BIANCAVILLA: Okay.

8 THE COURT: Well, I don't know have any case
9 law or statutory authority that requires the People to
10 provide you with a CV. If you can point me to some,
11 Mr. Chamberlain, I will be glad to look at it.

12 MR. CHAMBERLAIN: I have no authority at my
13 fingertips, Judge. It's my understanding it was
14 required, and it was requested. And we provided CVs
15 for all of our experts, at their request.

16 THE COURT: Again, I reiterate,
17 Mr. Chamberlain, if you can point me in the direction
18 that requires the People to -- case law or statutory
19 authority, requires the People to provide you with
20 curriculum vitae, again, I would be glad to look at
21 it. But I know of none that will require the People to
22 provide it as Rosario material.

23 Counsel, also for the record, the material --
24 subpoenaed materials from Doctor Raffy I have reviewed
25 them. And there is nothing that I see that should be

1 redacted. So, whenever we take a break, Counsel can
2 review them at their leisure.

3 MR. BIANCAVILLA: Thank you, Judge.

4 MR. CHAMBERLAIN: Thank you.

5 THE CLERK: Ready for the jurors?

6 THE COURT: Yes.

7 THE COURT OFFICER: Jury entering.

8 (Whereupon, the sworn jury and alternates
9 enter the courtroom).

10 THE CLERK: Both sides stipulate that all
11 sworn jurors are present and seated properly?

12 MR. BIANCAVILLA: So stipulated.

13 MR. CHAMBERLAIN: So stipulated.

14 THE COURT: Good morning, ladies and
15 gentlemen.

16 JURORS: Good morning.

17 THE COURT: I hope you had a nice weekend.
18 We're going to start the trial at this point.

19 First I would like to precharge you with the
20 following:

21 Members of the jury, at this point I'm
22 required by law to instruct you generally concerning
23 your basic functions, duty and conduct and to acquaint
24 you in a general way with the trial procedure and
25 certain rules which apply to every jury so that you

1 will better be able to assess and weigh the evidence as
2 it is presented and reach a proper verdict.

3 Now, the trial is commenced with the
4 selection of the jury. The next step in the trial will
5 be an opening statement by the People, represented by
6 the district attorney. During which he is required by
7 law to indicate to you what he intends to prove by way
8 of evidence to support the charges set forth against
9 the defendant. Subsequent to that, defense counsel, if
10 he desires, may also make an opening statement.

11 What counsel for either party say in an
12 opening statement is not evidence. You may consider
13 the opening statement as a preview of what each side
14 intends to prove by way of evidence in the case.

15 After the opening statement or statements,
16 the district attorney will present a witness or
17 witnesses who will be questioned by him. This is
18 called direct examination.

19 After the district attorney completes his
20 questions, defense counsel will be given an opportunity
21 to question the witness. This is called
22 cross-examination.

23 Now, after the People have concluded the
24 calling of their witnesses and the introduction of any
25 exhibits which are admissible into evidence, the

1 defendant may offer evidence in his defense.

2 After the defendant rests and the People
3 rest, the defendant may make a closing argument,
4 following which the People may make a closing argument.
5 Then I will charge you on law and you may retire for
6 the purpose of reaching your verdict.

7 This is the general outline of the trial
8 procedure. For the most part, evidence consists of
9 testimony of witnesses under oath and exhibits which
10 are introduced into evidence.

11 Questions in and of themselves are not
12 evidence. Therefore, you cannot infer any fact from
13 the mere asking of a question. It's the answer coupled
14 with the question that constitutes evidence. For
15 example, if a witness is asked a question, do you own
16 an automobile, and the witness answers no, you may not
17 infer from the mere asking of the question that the
18 witness does own an automobile.

19 Now, during the course of the trial either
20 attorney, the district attorney or defense counsel, may
21 object to a question or an answer on the ground that
22 somehow it's legally improper or inadmissible. If I
23 sustain the objection, this means that I believe the
24 question or the answer was in some manner improper.

25 Therefore, in the first instance, the

1 question that may not be asked. And in the second
2 instance, if an answer has been given, I will say,
3 strike it out, and, therefore, the answer is no longer
4 evidence in the case.

5 Now, if I overrule the objection, then it
6 means that the question is proper and I will permit it
7 to be answered, or if already answered, I will permit
8 the answer to stand as evidence in the case.

9 Please do not resent the fact that either
10 attorney makes objections. This is their duty. And do
11 not hold it against either attorney if I rule against
12 them. Also, I will explain to you in detail in my
13 charge, as jurors in the case you are the sole judges
14 of the facts. And I am the sole judge of the law. You
15 must accept the law as I give it to you without
16 hesitation or reservation, even if you privately
17 disagree with me.

18 You must keep an open mind. You must not
19 converse among yourselves or with anyone else upon any
20 subject connected with the trial.

21 You must neither offer nor express an opinion
22 as to the guilt or innocence of the defendant until I
23 finally give the case to you.

24 You must not read or listen to any account or
25 discussions in the case if reported in the newspapers

1 or other media. You must not visit or view the
2 premises where the offenses charged were allegedly
3 committed or any other premises or place involved in
4 this case.

5 You must promptly report to the Court any
6 attempt within your knowledge involving an attempt by
7 any person to improperly influence any member of the
8 jury.

9 Ladies and gentlemen, I have also requested
10 that you refrain from taking notes during the course of
11 this trial. Experience informs that by the taking of
12 notes by a juror during the course of a trial, it tends
13 to distract the attention of the juror from the trial.
14 It also tends during jury deliberations to confuse
15 those jurors who have not taken notes during the trial
16 and, therefore, prolongs deliberations.

17 Please bear in mind, any time during
18 deliberations you have a right to request testimony be
19 read back to you and any exhibit marked and received in
20 evidence be delivered to you.

21 We will now proceed with the next step of the
22 trial, which is the opening statement by the People.

23 Mr. Biancavilla.

24 MR. BIANCAVILLA: Thank you, your Honor.

25 May it please the Court, Mr. Chamberlain,

1 members of the jury, good morning.

2 Okay. We spent a lot of time picking a jury.
3 And this is the next stage, as the Judge told you. It
4 is my opportunity to provide you with an opening
5 statement. And what basically an opening statement is,
6 it is like the table of contents of a book, where I
7 will outline for you the evidence that we intend to
8 present during the course of this trial. You, of
9 course, as the jury will write the final chapter in
10 this book.

11 Now, the first thing we have to start with in
12 an opening statement is what Mr. Scrimo is charged
13 with. Because that's what we are required under the
14 law to prove. So, with that in mind, let me read to
15 you the indictment.

16 It's entitled County Court, County of Nassau,
17 the People of the State of New York against Paul
18 Scrimo, defendant.

19 The grand jury of the County of Nassau by
20 this indictment accuses the defendant of the crime of
21 murder in the second degree, in violation of Section
22 125.25, subdivision 1, of the Penal Law of the State of
23 New York, committed as follows:

24 The defendant, Paul Scrimo, on or about the
25 12th day of April 2000, in the County of Nassau, State

1 of New York, with intent to cause the death have Ruth
2 Williams, caused the death of Ruth Williams.

3 Second count: And the grand jury of the
4 County of Nassau by this indictment further accuses the
5 defendant of the crime of murder in the second degree,
6 in violation of Section 125.25, subdivision 2, of the
7 Penal Law of the State of New York, committed as
8 follows:

9 The defendant, Paul Scrimo, on or about the
10 12th day of April, 2000, in the County of Nassau, State
11 of New York, under circumstances evincing a depraved
12 indifference to human life, recklessly engaged in
13 conduct which created a grave risk of death to Ruth
14 Williams and thereby caused the death of Ruth Williams.

15 All of the actions and transactions alleged
16 in each of the several counts of this indictment are
17 connected together and from part of a common scheme and
18 plan.

19 It's dated July 6th, 2000, Mineola, New York,
20 it's signed by Denis Dillon, District Attorney of
21 Nassau County.

22 Putting the legalese aside, ladies and
23 gentlemen, what is this case all about? Pure and
24 simple, this case is about anger. Nothing more,
25 nothing less. On April 12th, 2000, during the early

1 morning hours, three people were out drinking together
2 at a bar in the Village of Farmingdale called Y.L.
3 Childs. Now, one is dead, one is on trial and the
4 other one is an eyewitness to the murder.

5 What the evidence will show, ladies and
6 gentlemen, is that Paul Scrimo is a stone-cold killer
7 that strangled to death a woman with his bare hands.
8 And that is what this case is all about.

9 Now, what are you going to hear about over
10 the next couple of weeks? First of all, you're going
11 to hear about Paul Scrimo, the defendant in this case.
12 And you're also going to hear about an individual by
13 the name of John Kane, who was also with Mr. Scrimo,
14 and a witness to this murder.

15 And what you will hear is that John Kane and
16 Paul Scrimo had been friends for a couple of years.
17 They played together on a dart team at a bar in
18 Farmingdale called the Falcon's Nest. They played
19 there every Tuesday night in dart tournaments from
20 eight o'clock until twelve o'clock.

21 You will also hear that Paul Scrimo is a
22 superintendent of an apartment building in Farmingdale
23 called Elizabeth Gardens. He worked there for about
24 thirteen years.

25 John Kane is a carpenter who was living in

1 the Farmingdale Village with his sister and his
2 brother-in-law.

3 And they played darts together every Tuesday
4 night. And on April 11th of the year 2000 that was no
5 different. They played darts at the Falcon's Nest that
6 night.

7 Now, Ruth Williams also lived in the Village
8 of Farmingdale. She had a little apartment on top of a
9 restaurant there on Main Street called Captain Andy's.
10 And Ruth Williams was born and raised in the Village of
11 Farmingdale. Her family at one time owned the White
12 Funeral Home right off of Main street in the Village of
13 Farmingdale. She was born there. She was raised
14 there. Ruth lived above Captain Andy's for a couple of
15 years and she managed the floral shop in Bethpage.

16 And on what was to be the last day of her
17 life, Ruth, forty-eight years old, was out and about in
18 the Village of Farmingdale, bouncing from bar to bar,
19 until the early morning hours of April 12th. And you
20 will hear this was not unusual for Ruth. Everybody on
21 Main Street knew Ruth. Ruth was out looking for
22 companionship. Ruth was out looking for affection.
23 Ruth had no idea that what she found that night would
24 end her life.

25 Sometime around two o'clock in the morning,

1 ladies and gentlemen, you're going to hear that Ruth
2 Williams, Paul Scrimo and John Kane all wound up
3 together in a bar on Conklin Avenue in Farmingdale,
4 right off of Main Street, called Y.L. Childs. It's got
5 all the comforts and necessity of a good gin mill.
6 It's got a pool table. It's got a dart board and it's
7 got music. And at two o'clock in the morning, when
8 they were all there together, they were all having a
9 good time. Everybody knew Ruth there. Ruth had been
10 there before. Everybody knew John Kane. John Kane had
11 been there before. Ruth knew John Kane because Ruth
12 had been intimate with John Kane on prior occasions.
13 And Ruth knew Mr. Scrimo as a local from the Village of
14 Farmingdale who had worked there for thirteen years.

15 Now, it was apparent to everybody at Y.L.
16 Childs that Ruth had more than her share to drink that
17 night. She was loud, she was boisterous, she was
18 dancing seductively for both Kane and Scrimo at the
19 right side of the bar. She was showing off her chest.
20 She was removing the straps of the overalls she was
21 wearing. She was also seen passionately kissing
22 Mr. Scrimo at the bar during the course of the night.
23 And this all went on, ladies and gentlemen, for a
24 couple of hours. And you will hear testimony that Ruth
25 left the bar alone at approximately 3:45 a.m. and went

1 home to her apartment above Captain Andy's on Main
2 Street.

3 You will also hear testimony that Ruth got
4 home around four a.m. and a short time later Scrimo and
5 Kane came knocking on the door. John Kane will tell
6 you that they left the bar after Ruth they said let's
7 go up to Ruth's house and continue the party. They
8 went there and they knocked on the door and she invited
9 had them in. Mr. Kane had asked Ruth for a beer when
10 they got into the apartment and Ruth said that she
11 didn't have any beer. So, Paul Scrimo volunteered to
12 go to the 7-Eleven right on the other side of the
13 railroad tracks from where the apartment was located
14 and buy some beer. But before he left Ruth asked him
15 to buy her a pack of cigarettes. Okay, a package of
16 Vantage Ultra Light 100s.

17 So, Scrimo left. While he was gone, Ruth
18 attempted to perform an act of oral sex on Mr. Kane.
19 And this went on for a couple of minutes, and when Kane
20 was unable to ejaculate because he had been drinking
21 all night, they stopped. Kane got up, went into the
22 living room to put on a CD. While he was in, putting
23 on the CD, Ruth went downstairs to let Mr. Scrimo back
24 into the apartment. When he got back up into the
25 apartment, Kane came walking out of the other room and

1 saw Scrimo there with a twelve pack of Coors Lites and
2 the cigarettes that she had asked for. Kane was
3 listening to the music, Scrimo was talking to Ruth in
4 the kitchen area. And Kane noticed during the course
5 of the conversation while he was at the other end of
6 the room that Scrimo and Ruth became involved in an
7 argument. It wasn't a loud argument. It was a
8 disagreement. And at one point Scrimo gets up and
9 says, I've had enough of this shit, I'm out of here.
10 And he goes walking down the hallway. Kane jumps up
11 and says, Paul, where are you going? Come on, cool
12 off. We just got here. Sit down and have a couple of
13 beers. With that, Ruth yells out, oh, let him go. Let
14 him go home to his fat, ugly wife. With that Scrimo
15 turns around, comes bounding back up the hallway,
16 pushes John Kane to the side and grabs Ruth Williams by
17 the throat, throws her down on the ground and in one
18 shot strangles her to death with his bare hands. Kane
19 goes to grand grab him and tries to pull him off, and
20 Kane will tell you he was hard as a rock and he
21 couldn't even move him. And John Kane will describe to
22 you as he looked over Paul Scrimo's shoulder how he
23 watched the life being strangled out of Ruth Williams.
24 How he saw her eyes roll up in to her head until the
25 point where she was dead.

1 At that point Scrimo yells to Kane, get the
2 CD, get the beers. Kane starts to collect the beers
3 and turns off the CD. While he's in the other room
4 doing that, he hears a ripping noise. A sound that
5 appeared to be unusual to him. And when he walked back
6 into the room, he saw Scrimo over Ruth Williams, tying
7 what appeared to be some type of a cord or a wire
8 around her neck. At that point Scrimo jumped up,
9 grabbed some napkins and started wiping everything
10 down, wiping the table down, wiping the door knobs
11 down. And as they were leaving, Scrimo cells to Kane,
12 don't worry about anything, it's all taken care of. We
13 were in this together.

14 Well, ladies and gentlemen, that's what he
15 did. And that's what happened at 196 Main Street on
16 the early morning hours of April 12th of 2000. And
17 here's how we're going to prove it. Please understand
18 something right from the beginning, this is a murder
19 case. And you are very fortunate because you have an
20 eyewitness to a murder. Most juries in murder cases ar
21 not as fortunate as you. In most murder cases you have
22 to rely on other evidence to prove someone's guilt.
23 You have to rely on other evidence to reach a decision.
24 In this case you're going to have a person, a witness,
25 who is going to give you a moment by moment description

1 of what happened in that apartment. You are going to
2 have a person who is going to give you a moment by
3 moment description of what led up to this attack on
4 Ruth Williams and what happened after the attack on
5 Ruth Williams. And when you're done listening to this
6 witness, you will see that, based upon his testimony
7 alone, you will be convinced that Mr. Scrimo murdered
8 Ruth Williams.

9 But this case goes much deeper than that. In
10 this case the depth of the evidence is far deeper than
11 just a witness to the murder. First of all, you're
12 going to have the luxury of sitting back and listening
13 to the police tell you about the lie that Mr. Scrimo
14 told the police during the course of their
15 investigation. How he lied to them about who he was
16 with that night, about what time he went home that
17 night, about what he did that night and about where he
18 was that night. You're going to have the luxury of
19 listing to the lies that he told the police after he
20 was arrested about where he was, who he was with, what
21 happened during the night. And you will also hear the
22 lame excuses that he gives the police for his faulty
23 memory about not remembering that information when he
24 was first interviewed. You're going to have the luxury
25 of listing to his attempts to cover up his lies after

1 he posted bail and was released.

2 All of his lies, ladies and gentlemen, that
3 he told the police during the investigation after he
4 was arrested and after he was released on bail you will
5 see were his attempts to distance himself from the
6 murder scene, from John Kane, and from Ruth Williams.
7 They all were, I was alone that night. I went straight
8 home after I drank. I didn't stop anywhere on the way
9 home.

10 Well, you're going to hear testimony on how
11 he was caught. Because, obviously, when he was out
12 that night, the police went out and they interviewed
13 other witnesses and they were able to determine that,
14 no, Mr. Scrimo was not alone that night, he was with
15 John Kane. And they were able to place him with John
16 Kane. The police found out he didn't go straight home
17 after he finished drinking. And why? Because there
18 were witnesses that will tell you, as they told the
19 police, what they saw.

20 He claimed that he didn't stop anywhere on
21 his way home. And, again, there were witnesses who saw
22 exactly where he stopped. And some of these glaring
23 inconsistencies are, number one, Mr. Scrimo claimed
24 that he went straight home alone, didn't see anybody,
25 didn't stop anywhere. Well, unfortunately for

1 Mr. Scrimo, the 7-Eleven clerk remembered Mr. Scrimo
2 coming in that night. And the 7-Eleven clerk will come
3 in and tell you how after four o'clock in the morning
4 Mr. Scrimo came into the 7-Eleven store and purchased a
5 twelve pack of beer and a package of Vantage Ultra
6 Light 100s. And the 7-Eleven is going to tell you he
7 thought that was strange because he knew Mr. Scrimo,
8 and he never saw Mr. Scrimo in the 7-Eleven in four
9 o'clock in the morning. And he also thought it was
10 strange because the only person that bought Vantage
11 Ultra Light 100s at that particular time in the morning
12 was Ruth Williams, the victim. And you're going to
13 hear him tell you that's why they had those cigarettes
14 in the 7-Eleven store. And he said to Mr. Scrimo, are
15 you going to see the blond lady? And Mr. Scrimo
16 smiled at him and laughed and said, yeah, don't tell my
17 wife. Because you will also hear that the 7-Eleven
18 clerk also knows Mrs. Scrimo. And after Mr. Scrimo
19 said, yeah, don't tell my wife, the clerk said, take a
20 couple of condoms and put two condoms in Mr. Scrimo's
21 bag as he left.

22 The 7-Eleven clerk will also tell you, as he
23 watched Mr. Scrimo walk out of the 7-Eleven, he saw him
24 make a right, turn toward the direction of Ruth
25 Williams' apartment, instead of walking directly across

1 the street, which would have been the direction of
2 where Mr. Scrimo's apartment building was.

3 Mr. Scrimo also got caught in another lie
4 when he said he went straight home. Francine Quinn,
5 who was a bartender in the Downtown Bar in Farmingdale,
6 when she got off of work, she decided to go up to Y.L.
7 Childs. And she's going to tell that you she saw
8 Ruthie Williams up in Y.L. Childs with John Kane and
9 with a big bald guy with tattoos, never seen him
10 before. But she's going to tell you that when she went
11 home, she had to walk back down Main Street and go back
12 behind the Downtown Bar. Right next to where her car
13 was parked was the entrance to Ruth Williams'
14 apartment. And she's going to tell you that at about
15 4:15, 4:20 in the morning, she saw Ruth Williams at her
16 back door, arguing with a big bald guy. And it was the
17 same big bald guy with tattoos that she saw her with in
18 Y.L. Childs.

19 So, at that point he's already caught in two
20 lies, ladies and gentlemen. But it gets even better
21 than that. At some point after Mr. Scrimo is arrested
22 and he's confronted with these inconsistencies in his
23 stories, he has a discussion with another police
24 officer who he happens to call to the scene of his
25 apartment building when there's some kind of problem

1 with a vagrant. And he starts talking about this whole
2 incident that he's been accused of. And at that point,
3 at some point in the conversation, he says, and you
4 know what, I didn't tell those homicide detectives the
5 truth. He said, you know, I went to 7-Eleven and I
6 bought the beer and the cigarettes and I brought it
7 back to them, but I never went up in the apartment.

8 And what is he attempting to do, ladies and
9 gentlemen? He had already been caught in his lies.
10 Now he's trying to make excuses for those original lies
11 that he told the police.

12 These are the type of evidence, ladies and
13 gentlemen, you're going to hear during the course of
14 this trial. That is in addition to, in addition to the
15 eyewitness testimony of John Kane.

16 Now, during the trial, make no mistake about
17 it, they're going to try to point the finger at John
18 Kane. Because they're going to say, and they're going
19 to argue to you and you're going to see during the
20 course of the trial, that there was DNA obtained from
21 one of the fingernails of Ruth Williams that came back
22 to John Kane. John Kane's DNA was found on cigarette
23 butts on the kitchen table in the apartment. And John
24 Kane's fingerprint was found on the CD case. And
25 they're going to say, look at John Kane, look at John

1 Kane. He was up in that apartment. He's the murderer.
2 Well, to be honest with you, ladies and gentlemen, if
3 the police were lazy and just wanted to point a finger
4 at somebody and just wanted to hang this murder on
5 somebody, it sure would have been easy to point the
6 finger and hang the murder on John Kane, make no
7 mistake about it. There's DNA on her fingernail. His
8 fingerprint is on the CD and there's cigarette butts on
9 the kitchen table. And if the police just wanted to
10 judge a book by its cover, when you see John Kane,
11 you're going to see how easy it would have been to
12 point the finger at John Kane and hang this murder on
13 him. But, they didn't want to judge a book by its
14 cover. They listened to what Kane had to say. They
15 compared it to the other evidence. And guess what?
16 When you look at John Kane as a potential killer or
17 anyone else as a potential killer in this case, the
18 evidence is going to show you that it doesn't make
19 sense. And we will prove to you during this trial that
20 Paul Scrimo is the murderer and that John Kane is not.
21 And here is how we're going to do it.

22 If John Kane killed Ruth Williams or someone
23 else killed Ruth Williams and Scrimo was not in the
24 apartment and not with him that night, then answer me
25 this question, why was he lying to the police about

1 where he was that night? Why was he lying to the
2 police about who he was with that night? Why did he
3 tell the police he went straight home? Why didn't he
4 tell the police he went to the 7-Eleven and bought
5 cigarettes and Vantage Light 100s? Why all the
6 deception? Why all the lies?

7 You're also going to hear some interesting
8 testimony about that wire, that cord that strangled
9 Ruth Williams to death, or that was wrapped around her
10 neck. And you're going to hear testimony that that
11 cord was cut, one end of it was cut. And you're going
12 to hear testimony that that cord was a power cord to an
13 answering machine from Ruth Williams' apartment. And
14 the heavy end, the end with the transformer on it had
15 been cut off.

16 But what's very interesting with the
17 testimony that you're going to hear is that that cord
18 was not cut with a knife. It was cut with a scissor
19 type object or a scissor type tool whose blades were
20 not exactly in alignment. And you're going to hear
21 expert testimony that that cord was cut with a tool
22 that was consistent with a tool that Mr. Scrimo wore on
23 his belt and was in his possession on the day he was
24 arrested.

25 I want you to think about that. Because that

1 is very interesting. If you are pointing the finger at
2 John Kane or pointing the finger at someone other than
3 Mr. Scrimo, what a coincidence that would be that
4 Mr. Scrimo just happened to have that particular type
5 of tool that cut that cord that was found wrapped
6 around Ruth Williams' neck, and the jaws of it were not
7 closing together properly and would have made a type of
8 cut.

9 Now, obviously they can argue, well, sure,
10 but that cut could have been made with any other type
11 of tool whose jaws didn't close correctly. But what do
12 you think the odds would be when Mr. Scrimo just
13 happened to be wearing that tool on his waist when he
14 was arrested?

15 You're also going to hear about DNA evidence.
16 You're going to hear about fingerprint evidence. On
17 the kitchen table there were several items that were
18 found. There was a Budweiser bottle on the kitchen
19 table. And there was DNA taken off of the mouth of
20 that Budweiser beer bottle. And you will hear
21 testimony from experts saying there was a DNA mixture.
22 It wasn't just one person's DNA. And you will hear
23 testimony that the major contributor on that beer
24 bottle was John Kane, but there was also a minor
25 contributor on that beer bottle, that was consistent

1 with Mr. Scrimo.

2 But another interesting factor about that
3 beer bottle is that there were no fingerprints on the
4 beer bottle. There were fingerprints on the wine glass
5 on the table that came back to Ruth Williams. There
6 were fingerprints on the photo album on the table that
7 came back to Ruth Williams and some unknowns. There
8 was a fingerprint on a poem that was on the table. But
9 the beer bottle didn't have any fingerprints on it.

10 You're going to have to think about that,
11 ladies and gentlemen. And when you are thinking about
12 that, think about John Kane is talking to you about,
13 Mr. Scrimo wiping things down as he was leaving the
14 apartment.

15 Ladies and gentlemen, you will hear one
16 inconsistent after another inconsistency covering the
17 course of this trial. I just highlighted the main ones
18 regarding the investigation of this case. And let
19 there be no mistake about it, over the next two weeks
20 we are going to prove a case to you against Mr. Scrimo.
21 We are going to do it witness by witness, piece of
22 evidence by piece of evidence. And make no mistake
23 about it, at the end of my case, I'm going to argue to
24 you that we have proven to you beyond a reasonable
25 doubt that Mr. Scrimo murdered Ruth Williams. And I am

1 confident that when you hear the evidence, you listen
2 to the testimony of John Kane, and you listen to the
3 lies that Mr. Scrimo told during the course of this
4 investigation, you will reach the same conclusion. And
5 that is that Paul Scrimo murdered Ruth Williams.

6 Thank you.

7 THE COURT: Mr. Chamberlain.

8 MR. CHAMBERLAIN: Thank you, Judge.

9 Ladies and gentlemen, we finally get to
10 discuss the evidence, what this case is all about. And
11 as the Judge told you, what the DA told you is not
12 evidence. What I'm about to tell you is not evidence.
13 If, in fact, you can try the case on what we said, he
14 would win because he's much more persuasive than I am.
15 If you listen to everything he said, if he were the
16 witness, you would believe him. But I don't think
17 you're going to believe John Kane. And I think I'm
18 going to be able to show you and give you a guideline
19 as to why you're not.

20 Let me say first, you heard the Court tell
21 you that he's required to open, and the defense may
22 open, I'm not. And there are occasions when a defense
23 counsel will say to a jury, keep an open mind and let
24 it go at that. Remember the Court's instructions, keep
25 an open mind, presumption of innocence and that sort of

1 stuff. It's not stuff, those rulings. But I'm going
2 to go further here, because I think some sort of a
3 guideline in listening to the evidence in this case
4 will be helpful to you as jurors. And in doing so, I
5 want you to remember what we discussed as to how you
6 will evaluate witnesses and whether or not you give any
7 greater credence or whether or not you follow the
8 Court's instructions with respect to burden of proof.

9 What I'm about to say is not an assumption of
10 the burden of proof. I'm not going to be trying here,
11 trying to prove that John Kane -- as the district
12 attorney said, they're going to prove he didn't do it.
13 I don't think there's a prayer of them doing that --

14 I'm not going to try to prove that he did it, because
15 I don't have the power, I don't have the tools and it's
16 not my job. It's not my job. So, I'm not assuming
17 that burden.

18 Now, number one, I want to tell you to keep
19 in mind the charge here is murder. The charge is not
20 whether or not my client may or may not have told the
21 whole truth at all times to all detectives. Some of
22 this involves things that a man would not want his wife
23 to know. And that may be a ground, not saying so; but
24 there's no crime in not telling the whole truth,
25 assuming that's what you find. Assuming that is what

1 you find.

2 I think when you're through with how this man
3 was picked up and when and what was said, you're going
4 to find you don't necessarily credit everything the
5 People claim as to what he said. They don't have any
6 written statements. They don't have any admissions to
7 any crime. The whole thrust here is three weeks or so
8 after the murder, when he's picked up after a night of
9 drinking, that three weeks later, did he remember every
10 detail, or did he perhaps even fudging on some of the
11 details?

12 The crime is not whether or not somebody told
13 the full story. It's a -- it's a felony to lie under
14 oath before a jury or under oath. It's a misdemeanor
15 to sign a false statement knowing it to be false. But
16 it's no crime at all to lie to the police. And even if
17 it were, that's not the charge. And they're going to
18 try to -- they're going to try to dissuade you from
19 what the charge is here. The charge is murder, ladies
20 and gentlemen. Horrible, terrible charge. A horrible,
21 terrible murder. But the issue isn't who did this.
22 The real issue here is, after this case is over, have
23 they proved that my defendant did this?

24 I think the evidence, after you have listened
25 to it, you will have a better belief that it's more

1 likely that John Kane did it than my defendant. But
2 it's not my burden to prove that.

3 Now, you heard about Mr. Kane being a
4 carpenter; my client being a superintendent. In a
5 sense both statements we'll find evidence of. But my
6 client is a fully employed superintendent, with a wife
7 and two children he's supported.

8 Mr. Kane, you will find out, is not really a
9 carpenter. He's a part-time hippy. He's a thirty year
10 old hippy. That's what you're going to have here.

11 Your case -- your -- this case is going to
12 depend upon whether or not you believe this thirty year
13 old hippy. I don't know what he's going to look like
14 when he comes in here. He disappeared. The DA -- I
15 don't know where he is. But he had, not long hair, it
16 went down by his shoulders, full beard all the way down
17 to here (indicating). He looked a little bit like
18 Jesus Christ incarnate. And he lived the style, a
19 dirty hippy lifestyle. He didn't work. You're going
20 to find out that maybe a couple of days every --
21 occasionally he would do some work. I don't know if he
22 was being paid on the books or not. We'll find out.
23 The chances are he wasn't getting paid.

24 How was he living? He drank. You're going
25 to hear from the district attorney evidence, he was out

1 all the time, all the time, every night. He didn't
2 just go to one bar, he would go to a series of bars.
3 The question is why? Why is he going from bar to bar?

4 I think you're going to find there is
5 evidence in this case that Mr. Kane was selling
6 cocaine, that's why he traveled from bar to bar to bar.
7 That is what supported his life style. How do you
8 live, ladies and gentlemen, when you get to be thirty?
9 He didn't have any kids. He didn't have a wife. But
10 how do you support yourself, food, lodging, all the
11 things that it takes to live? It's expensive, you
12 know. How do you support yourself if you work every
13 now and then as a part-time carpenter? Believe me, I
14 think it was more then than now.

15 So, lifestyle, in evaluating a witness, as we
16 discussed during jury selection, is important.

17 Background. You're going to find out when he
18 was -- first of all, Mr. Biancavilla very cogently and
19 persuasively talked about, maybe my client didn't tell
20 the whole truth, maybe he lied when he was arrested.
21 He was arrested on May 3rd. The night before he was
22 arrested Kane was picked up and brought in and
23 questioned. Kane had previous -- this is three weeks
24 after the murder. Kane had previously given a
25 statement, I think April 19th or 20th, a couple of

1 weeks before that, a week or so after the murder, he
2 had nothing to do with it. Nothing. They asked about
3 a bald fellow. My client at the time wasn't bald, he
4 had his head shaved. No, nothing to do with it. When
5 he's picked up, he persists in lying.

6 So, you don't have an eyewitness to a murder.
7 Eyewitnesses to a murder, I agree with the district
8 attorney, are very rare. But why do you have an
9 eyewitness to a murder? Is it somebody that happened
10 to see it and immediately witnessed and told the
11 police, but had nothing to do with it? Baloney.

12 His claim here that you heard is he invited
13 -- he wanted to go back up there. Why? To have oral
14 sex, which he said he had on previous occasions. Why
15 is he inviting somebody else along with him? Why does
16 he lie to the police? Why does he clean up the scene?

17 You will hear he cleaned up fingerprints and
18 bottles and got evidence out of there. That alone is a
19 felony, by the way, even if he didn't take part in the
20 murder. He's not being prosecuted for that. Why?
21 Why? Why does he lie even after he's picked up three
22 weeks later, which he does. You will hear it. He
23 continues to lie. Nothing to do with it. Nothing to
24 do with it. Then they say, we can tie you in here. We
25 can tie you into this scene. We can prove you were

1 there at that time.

2 Ladies and gentlemen, you will hear the
3 evidence, it's very interesting they had a fingerprint
4 of Kane. They already had there SIB, Scientific
5 Investigation Bureau, do tests and they had
6 fingerprints showing Kane was there. So, they tied him
7 in. They didn't have the DNA records yet. So, Kane,
8 after a couple of hours, whatever it is, of being
9 questioned in homicide on the night of May 2nd, and
10 he's had time now, he's had three weeks to think about
11 it, he knows he might be a suspect. He knows people
12 had seen him with this witness. He knows that she was
13 coming on to him, she was after him. Whether she was
14 after him for sex or for drugs is a question you're
15 going to have to ask yourselves. And there may be
16 evidence about that. But, the question is, what does
17 he do? He's there. They can prove he's there. They
18 know he's got a prior relationship. They already knew
19 that before they picked him up that night. They knew
20 that. So, what does he do? He says, the only way out,
21 I'm going to lay it on Kane -- I'm going to lay it on
22 the defendant.

23 And all the evidence, all the physical
24 evidence, there's things that they can't change here.
25 You're going to listen to the chain of the physical

1 evidence coming in. You don't have any written
2 statements by my client. You don't have any -- you
3 don't have any admissions. And it's not whether he was
4 in the apartment or not, that's not the issue. Their
5 whole -- everything they're going to try to point to,
6 to show he was there. That's not the issue. The issue
7 is, who killed this poor woman? And there is only one
8 thing I can tell you about that, every piece of
9 evidence, scientific evidence, which you can't fudge,
10 points to Kane.

11 He claims he helped clean the apartment up.
12 His prints are there. His DNA is all over the place.
13 They didn't get the DNA until after they charged my guy
14 and let Kane go. They had already taken a position on
15 this case. Strangely enough, they had let Kane go.
16 How they made that, why they made that, not my burden
17 to prove to you.

18 But, subsequent DNA tests showed it was
19 Kane's DNA that was found under, not on -- you heard it
20 was on the fingernail. It wasn't on the victim's
21 fingernail. It was scrapings from underneath her nail.
22 Where somebody being strangled would struggle and you
23 would get scrapings. It was under her fingernail.
24 That's where they -- these tests show whose DNA it is.
25 Who was there? Kane. Whose fingerprints are in the

1 apartment? Kane's. Whose DNA is on all other
2 locations in the apartment? Kane. Who is the major
3 contributor to this beer bottle? Kane. Kane. Kane.
4 Kane. Kane. Kane.

5 So, ladies and gentlemen, I think you're
6 going to have to be very careful about how you evaluate
7 this evidence. But I think when you're through, you
8 will find that if there's proof beyond a reasonable
9 doubt, it's proof that Kane committed this murder, not
10 this defendant. And you don't have to -- you don't
11 have to solve this case. Maybe after -- after the case
12 is over you can try to talk about solving the case, as
13 to what really happened. But you do have to follow the
14 Court's instructions.

15 There's no proof beyond a reasonable doubt.
16 It's -- in my opinion, there's very little proof,
17 unless you completely believe Kane. If you believe
18 Kane, you can find my defendant guilty. But you have
19 to believe him beyond a reasonable doubt. And I think
20 there's plenty of evidence. His own activity, his own
21 background, his -- and the scientific evidence -- to
22 say there's more than a doubt there.

23 Now, you have one other fact I want to bring
24 out. You have my defendant arrested May 3rd, 2000.
25 Picked up. Even though they knew where he was, they

1 waited for hours to arrest him on the street after he's
2 been drinking; presumably, so nobody can call his wife
3 and say, get a lawyer. So, they picked him up and
4 questioned him. He is -- there's a preliminary exam
5 and then there's an indictment.

6 I think the indictment is on or about the
7 first week of July. I don't remember the exact date.
8 I think the presentation is July 6th or 7th. There's
9 an indictment then.

10 You're going to find out that there is
11 evidence gathered -- normally, before they arrest
12 somebody, certainly before they present the case to the
13 jury, they have their evidence. They say this --

14 MR. BIANCAVILLA: Judge, I'm going to object
15 to what normally happens.

16 THE COURT: Yes.

17 MR. CHAMBERLAIN: I'll withdraw that.

18 THE COURT: Yes. It's sustained.

19 MR. CHAMBERLAIN: In this case you're going
20 to hear about attempts to get further tests. When the
21 DNA results came back, they all point to Kane. So,
22 they resubmit later on, a year later. You're going to
23 have tests in the year 2001, renewed DNA analysis.
24 Trying to bring my guy in. Unsuccessful, in my
25 opinion. But they're trying -- there are attempts.

1 There are tests on this tool you heard about, which is
2 sort of interesting. You're going to have tests by the
3 SIB lab and it's sent later on to Washington for the
4 FBI, after the indictment. You're going -- they're
5 trying to tie this tool into my defendant.

6 What you heard was the word consistent. Be
7 very, very careful about the word consistent.
8 Consistent merely means it would have been, it could
9 have been that type of tool or any other type of
10 sheering type tool. It didn't mean it was this
11 particular tool.

12 I think you're going to find when you listen
13 to the experts, including their experts, that they are
14 going to say they couldn't say it was this tool.

15 First of all, if somebody committed a murder,
16 would they go around and carry the tool they used weeks
17 later, if they had any sense? They would have to be a
18 blithering idiot not to get rid of it, if they used the
19 tool. But you're going to hear about something else;
20 that there was a piece of material on this tool. They
21 tried to tie that to the cord. And, again, no match.
22 No match.

23 So, don't be mislead or deceived by the use
24 of a sophisticated word like consistent. Consistent
25 means that you can have somebody that spends years in

1 jail on something that is consistent, DNA evidence then
2 shows --

3 MR. BIANCAVILLA: Judge, I'm going to -- I'm
4 going to object.

5 MR. CHAMBERLAIN: Shows it's not he who did
6 it.

7 THE COURT: Yes, sustained.

8 MR. CHAMBERLAIN: Ladies and gentlemen,
9 finally, I want to tell to you keep an open mind.
10 Listen to the -- listen to the Court's instructions on
11 the law, apply the law, and at the end of the case
12 you're going to think and find that the only evidence
13 that the People have is the statements made by this
14 witness as to what he says happened after he was shown
15 that they had him tied in there. And I don't think
16 you're going to find that carries much weight.

17 Thanks very much.

18 THE COURT: Mr. Biancavilla, you can call
19 your first witness.

20 MR. BIANCAVILLA: Can we approach?

21 THE COURT: Yes, Counsel, come forward.

22 (Whereupon, there is a discussion held at the
23 Bench, off the record, between the Court and Counsel.)

24 THE COURT: Ladies and gentlemen, we're going
25 to take a short break at this point.

1 Do not discuss the case among yourselves or
2 with anyone else. Keep an open mind. Do not form or
3 express any opinions until the entire case is
4 completed. Do not read or listen to any account of
5 this case, should it be reported in the media. Do not
6 visit or view any places mentioned. You are not to
7 permit any party to discuss this case with you or
8 attempt to influence you. You must promptly report to
9 the Court any violation thereof.

10 We will take a short break. We'll be back in
11 ten minutes.

12 THE COURT OFFICER: Okay, jurors.

13 (Whereupon, the sworn jurors and alternates
14 leave the courtroom.)

15 THE COURT: Okay.

16 (Whereupon, there is a brief recess taken in
17 the proceedings)

18 (Whereupon, the following takes place in open
19 court)

20 MR. BIANCAVILLA: Can I premark these
21 exhibits?

22 THE COURT: Yes. People's 1 and 2, photos.
23 Premarked People's 1 and 2 for identification.

24 THE COURT OFFICER: Ready for the jury?

25 THE COURT: Ready, Counsel?

1 MR. BIANCAVILLA: Yes.

2 MR. CHAMBERLAIN: Yes.

3 THE COURT: Yes.

4 THE COURT OFFICER: Jury entering.

5 (Whereupon, the sworn jury and alternates
6 enter the courtroom)

7 THE CLERK: Both sides stipulate that all
8 sworn jurors are present and seated properly?

9 MR. CHAMBERLAIN: So stipulate.

10 MR. Biancavilla: Yes.

11 THE COURT: Could you call your first
12 witness, Mr. Biancavilla?

13 MR. BIANCAVILLA: John Williams, your Honor.

14 J O H N M I L L E R W I L L I A M S, called as a
15 witness by and on behalf of the People, having been
16 first duly sworn, testified as follows:

17 THE COURT OFFICER: In a loud voice would you
18 state your full name, spelling your last name and
19 county of residence.

20 THE WITNESS: John Miller Williams, Wyoming
21 County, Pennsylvania.

22 MR. BIANCAVILLA: May I inquiry, your Honor?

23 THE COURT: Yes.

24 DIRECT EXAMINATION

25 BY MR. BIANCAVILLA:

1 Q Mr. Williams, good morning.

2 A Good morning.

3 Q Thank you for being with us today.

4 Mr. Williams, can you tell the jury what your
5 relationship was to the victim in this case, Ruth Williams?

6 A I am the victim's brother.

7 Q And you live in Pennsylvania now?

8 A Yes.

9 Q Where -- who do you live with?

10 A I live with my wife and two children.

11 Q And what is your profession?

12 A I'm a automotive and industrial mechanic.

13 Q When did you move to Pennsylvania?

14 A I moved to Pennsylvania with my family about
15 eight years ago.

16 Q And where do your parents reside?

17 A My parents reside in Nicholson, Pennsylvania.

18 Q Now, was there a time when you lived in
19 Farmingdale?

20 A Yes. For most of the first thirty-six years of
21 my life I lived in Farmingdale.

22 Q How about your parents?

23 A They moved to Pennsylvania from Farmingdale in
24 1979.

25 Q And prior to moving to Farmingdale -- prior to

1 moving from Farmingdale, what was your father's profession?

2 A My father was a funeral director.

3 Q And in what funeral home?

4 A In Arthur F. White funeral home in Farmingdale.
5 They had places in Farmingdale and Bethpage.

6 Q Your sister Ruth, did she grow up in Farmingdale
7 also?

8 A Yes, she did.

9 Q Could you tell the jury what her educational
10 background was?

11 A She graduated from Farmingdale high school in
12 1970. And then she attended a secretarial school. And
13 immediately afterward worked as a secretary, up until 1978,
14 at which point she got married. And at that point she lived
15 in Farmingdale and also in Fort Myers, Florida. And then
16 the marriage dissolved and she came back up. And at that
17 point she went to the State University of New York at
18 Farmingdale for horticulture, full time. And after that she
19 got out of school around 1982, '83. At that point, until
20 the time of her death, she worked in the florist business.

21 Q What type of positions did she hold in the
22 florist business?

23 A She was a floral designer more than anything.

24 Q At the time of her death, where did she work?

25 A A florist in Bethpage, whose name I honestly

1 don't remember.

2 Q Could you describe for the jury your sister's
3 stature; how tall was she?

4 A Ruthie was, I'd say, between five foot seven and
5 five foot eight inches tall.

6 Q And approximately what was her weight?

7 A Her weight? I would say, approximately a
8 hundred dollars and seventy pounds.

9 Q And when was the last time you saw Ruth?

10 A I saw Ruth for the last time, I would say, in the
11 winter of 2000. I would say about January or February,
12 rather, of 2000. I had come down to Long Island for the day
13 and I believe I had stopped in to where she worked and
14 visited, you know, for fifteen or twenty minutes and
15 chatted.

16 Q How often would you see Ruth during the year?

17 A Since I moved to Pennsylvania, I would probably
18 see her two or three times on Long Island. And then usually
19 in September she would come up to Pennsylvania and stay at a
20 cottage we have on a lake for two to three weeks.

21 While in Pennsylvania, of course, I saw her just
22 about every day.

23 Q How often would she see your parents?

24 A She would see my parents -- when she was in
25 Pennsylvania, of course, for the two or three weeks on

1 vacation, she would see them just about every day. Other
2 than that, my parents can't really travel anymore. And, you
3 know, during the year she really didn't have the time to
4 come up. Maybe she came up once a year.

5 Q How old are your parents?

6 A My dad is eighty-one years old, and my mom is
7 seventy-seven.

8 Q Now, are there any other members of the family
9 here in the courtroom today?

10 A Yes. My cousin Rob is seated in the back.

11 Q Okay. Now --

12 A I don't see anybody else.

13 Q Okay, Mr. Williams. Were you ever at Ruth's
14 apartment at 196 Main Street on -- in Farmingdale?

15 A Yes. Above Captain Andy's, sure.

16 Q Could you describe for the jury the condition of
17 that apartment?

18 A My sister was, to put it mildly, a neat freak. I
19 mean, it used to be a running joke, where she would like me
20 to come over just so I could make a little bit after mess so
21 she could clean it up. You know, so the place was really,
22 every time I was in it, the place was basically spotless.

23 Q How often -- how many times were you in that
24 apartment?

25 A When I lived on the Island I saw her quite often.

1 You know, I don't know how to put a number on that.

2 Q How long did she live above Captain Andy's?

3 A Gee, I'm trying to think when she moved there.

4 Q If you remember.

5 A Actually, I don't remember when she moved. She
6 lived on 130 Segatogue for a long time. Then she moved to
7 Captain Andy's at one point.

8 Q What is Captain Andy's?

9 A I'm sorry, it's a restaurant.

10 Q Where was her apartment located in relation to
11 Captain Andy's?

12 A It was above it.

13 Q I would ask the witness be shown what has been
14 marked as People's Exhibit 1 and 2 for identification.

15 THE COURT: Okay.

16 Q Mr. Williams, you have been shown what has been
17 marked as People's Exhibit 1 and People's Exhibit 2 for
18 identification. Do you recognize those two photographs?

19 A I recognize this one, number one.

20 Q Do you recognize the person in -- one of the
21 people in People's Exhibit number 2?

22 A Yes.

23 Q Do both photographs fairly and accurately depict
24 your sister's stature at or about the time of her death?

25 A Yes, I would say so.

1 MR. BIANCAVILLA: We would offer them into
2 evidence, Judge.

3 THE COURT: Please shown them to
4 Mr. Chamberlain.

5 MR. CHAMBERLAIN: Very short voir dire,
6 Judge?

7 THE COURT: Yes, Mr. Chamberlain.

8 VOIR DIRE EXAMINATION

9 BY MR. CHAMBERLAIN:

10 Q Mr. Williams, do you have any idea when these
11 pictures were taken?

12 A The larger photograph, number 1, was taken
13 sometime in the Fall of 1999.

14 Q Okay. Thank you. And the other one, the small
15 one?

16 A I have no idea.

17 Q All right.

18 MR. CHAMBERLAIN: I have no objection to the
19 introduction.

20 MR. CHAMBERLAIN: Thank you, Mr. Williams.

21 THE COURT: Mark them in evidence.

22 THE COURT OFFICER: People's 1 and two
23 received.

24 MR. BIANCAVILLA: Judge, may I DISPLAY them
25 for the jury?

1 THE COURT: Yes, you can publish them.

2 (Whereupon, the referred to items are

3 displayed to the sworn jury and alternates.)

4 DIRECT EXAMINATION CONTINUED

5 BY MR. BIANCAVILLA

6 Q Mr. Williams, I know you're familiar with
7 People's 1, which is the larger photograph. Can you tell
8 the jury who is depicted in that photograph?

9 THE COURT OFFICER: Can you see?

10 THE WITNESS: Not really.

11 THE COURT: Why don't you go down in the
12 well, Mr. Williams.

13 THE WITNESS: Okay, sure.

14 (Whereupon, the witness leaves the witness
15 stand.)

16 Q Could you tell the jury who is depicted in the
17 photograph, the individual on the left?

18 A Certainly. That's myself.

19 Q The individual next to you?

20 A That's my dad. Next to him is my uncle, my
21 father's brother. In addition to Uncle Ross is Ruthie.

22 Q This photograph you said was taken when?

23 A Fall of '99 sometime.

24 Q Okay. Displaying People's Exhibit 2, do you
25 recognize the people in that photograph?

1 A Yes. The woman on the left, I have no idea.

2 Q How about the woman on the right?

3 A The woman on the right is my sister.

4 Q And you couldn't tell us when that photograph was
5 taken?

6 A No, I couldn't. You know, if you want me to make
7 an estimation.

8 Q No, that's fine.

9 A No, I don't know.

10 Q Does that photograph fairly and accurately depict
11 your sister's size, her stature, at or about the time of her
12 death?

13 A Yes, it does.

14 Q Thank you, Mr. Williams. You can be seated.

15 (Whereupon, the witness resumes his seat on
16 the witness stand.)

17 Q Now, Mr. Williams, with respect to your sister's
18 personality, how would you describe that?

19 A Where do you begin? She was fun to be with.
20 She was very generous. She loved animals.

21 Q Were you older or younger than Ruth?

22 A Ruth was three and-a-half years older than
23 myself.

24 Q Was she protective of you?

25 A Oh, yes. Growing up, very. Even when we both

1 hit adulthood, at times, very.

2 Q And under what circumstances was she protective
3 of you?

4 A Well, growing up, just in the neighborhood, you
5 know, when kids would bother me or whatever. Every now and
6 then it came up. You know, she -- if she knew about it, she
7 would be right there. She would -- she was --

8 Q Was she an individual easily taken advantage of?

9 A Not at all.

10 Q How would you describe her reactions?

11 A She, to put it bluntly, she didn't take crap from
12 anybody.

13 Q That was even as she grew older?

14 A Yes, definitely.

15 Q Okay. By the way, how old was your sister at the
16 time of her death?

17 A Let's see. It happened just after her -- just
18 after her forty-eighth birthday.

19 Q When was her birthday?

20 A April 6th, 1952.

21 Q When were you notified of her death?

22 A The morning of April 14th.

23 Q Who notified you?

24 A I got a phone call. My cousin, Rob.

25 MR. BIANCAVILLA: Thank you very much,

1 Mr. Williams. I have no further questions.

2 THE COURT: Mr. Chamberlain?

3 MR. CHAMBERLAIN: No questions, your Honor.

4 THE COURT: Thank you, Mr. Williams. You can
5 step down.

6 THE WITNESS: Okay.

7 (WITNESS EXCUSED)

8 THE COURT: Counsel, approach the Bench,
9 please.

10 MR. BIANCAVILLA: Thank you, Judge.

11 (Whereupon, there is a discussion held at the
12 Bench, off the record, between the Court and Counsel.)

13 THE COURT: Yes.

14 MR. BIANCAVILLA: The People call William
15 Nimmo.

16 W I L L I A M N I M M O, called as a witness by and on
17 behalf of the People, having been first duly sworn,
18 testified as follows:

19 THE CLERK: You may be seated.

20 THE COURT OFFICER: Please be seated.

21 In a loud voice, would you give your full
22 name, spelling your last name, and County of residence:

23 THE WITNESS: William Nimmo, N-I-M-M-O,
24 Nassau County.

25 MR. BIANCAVILLA: May I inquire, your Honor?

1 THE COURT: You may.

2 DIRECT EXAMINATION

3 BY MR. BIANCAVILLA:

4 Q Good morning, Mr. Nimmo.

5 A Good morning.

6 Q Would you tell the jury what your profession is?

7 A I own a retail florist in Bethpage.

8 Q What is the name of your florist?

9 A Bethpage Bouquet.

10 Q How long have you had that business?

11 A I opened in 1984.

12 Q Do you know Ruth Williams?

13 A Yes.

14 Q How long did you know Ruth Williams?

15 A She came to work with me in December of '92 I

16 believe it was.

17 Q And what was her position with your florist?

18 A She started out as floral designer and she

19 quickly became my manager in the store.

20 Q For how many years was she your manager?

21 A I guess seven or eight years.

22 Q How would you characterize Miss Williams as an
23 employee?

24 A She was a very good employee. She had a key to
25 my store. She was in charge when I wasn't there. A lot of

1 duties she took care of for me. Very well liked. Lots of
2 friends. Very good employee.

3 Q And that was for the entire time she worked for
4 you?

5 A Yes.

6 Q And do you have another employee that works
7 there?

8 A Yes, I do.

9 Q Was Caroline Daly one of the employees that
10 worked there?

11 A Yes.

12 Q Did Ruth Williams supervise Caroline Daly while
13 she worked there?

14 A Yes.

15 Q Now, what exactly were the re -- Ruth Williams'
16 responsibility for you?

17 A She did everything. It's a florist. She did
18 everything from, you know, bridal consultations, helping the
19 general public, funeral work. You know, ordering flowers.
20 You know, just about everything you do in a florist. Making
21 the arrangements, dictating to the younger employees what to
22 do.

23 Q Did she set up schedules for employees?

24 A Not usually, no. I would take care of that.

25 Q Was she a punctual employee? Did you ever have

1 to worry about her showing up or not showing up?

2 A She was there most of the time. In a small shop
3 like that, with people, they get sick on and off. But she
4 was usually very good.

5 Q Thank you. Did she also have control over cash
6 flow within the business in terms of accounts and taking
7 care of the money?

8 A We're a computerized shop at that time. The
9 computer does a lot of the stuff for us. But she was fully
10 trusted. She had keys. She would take the money and put in
11 a safe at night. All that kind of stuff.

12 Q Thank you very much, Mr. Nimmo. I have no
13 further questions.

14 THE COURT: Mr. Chamberlain, any questions?

15 MR. CHAMBERLAIN: No questions. Thank you,
16 Judge.

17 THE COURT: Mr. Nimmo, thank you. You may
18 step down.

19 Mr. Biancavilla, call your next witness.

20 MR. BIANCAVILLA: Caroline Daly.

21 C A R O L I N E D A L Y, called as a witness by and on
22 behalf of the People, having been first duly sworn,
23 testified as follows:

24 THE COURT OFFICER: In a loud voice, would
25 you give your full name, spelling your last name, and

1 county of residence.

2 THE WITNESS: Caroline Daly, D-A-L-Y. I live
3 in Commack, Suffolk County.

4 MR. BIANCAVILLA: May I inquire, your Honor?

5 THE COURT: Yes.

6 DIRECT EXAMINATION

7 BY MR. BIANCAVILLA:

8 Q Miss Daly, would you tell the jury -- first of
9 all, good morning.

10 A Good morning.

11 Q Would you tell the jury where you're employed?

12 A Bethpage Bouquet.

13 Q How long have you been employed there?

14 A About since February -- oh, God. 1998 I would
15 say, very part-time.

16 Q When you say you only work part-time --

17 A Yes.

18 Q How often are you there?

19 A Then, back then I worked, I worked three days a
20 week from nine to three.

21 Q What was your position there at the florist?

22 A I was the counter-help person.

23 Q Would you take orders and send out deliveries?

24 A And I did floral design.

25 Q You did floral design also?

1 A Yes.

2 Q Did you know Ruth Williams.

3 A Yes.

4 Q How long did you know Ruth Williams?

5 A A year and-a-half.

6 Q Ruth Williams was the manager of that florist?

7 A She was the manager of the store.

8 Q So, you would interact with her on a daily basis?

9 A Yes, sir.

10 Q Were you working at the florist in or about April
11 of 2000?

12 A Yes.

13 Q Were you there on April 12th of 2000?

14 A What day of the week was that?

15 Q That would be a Wednesday.

16 A No, I do not work on Wednesdays.

17 Q Were you there on April 13th?

18 A Yes.

19 Q Could you tell the jury what happened on April
20 13th when you got to work?

21 A I came in and the girl had told me that Ruth
22 didn't come in yesterday and that they had been calling.
23 And I was worried, so I --

24 Q Why were you worried?

25 A Just because it's now her second day that she

1 didn't come in.

2 Q So, what did you do?

3 A I sent one of the drivers over to see if her car
4 or truck was in the parking lot. And then I called the
5 landlord, to see if he could check to see if the mail was
6 there.

7 Q When you said you sent a driver over --

8 A The delivery person.

9 Q What happened when you sent the delivery person
10 over?

11 A He came back and said her truck was there.

12 Q Was where?

13 A In the parking lot.

14 Q And when he told you that the car was in the
15 parking lot, what did you do?

16 A Then I started calling the landlord Sven.

17 Q About what time did you send the driver over to
18 Ruth's apartment, do you remember?

19 A Yes, around ten.

20 Q And about what time did he report back to you?

21 A 10:30.

22 Q And in was on Thursday, correct?

23 A Yes.

24 Q The 13th?

25 A Uh huh.

1 Q And you started calling then, when?

2 A I spoke to the wife at around, I think it was
3 around eleven or twelve. And I spoke to his wife and I
4 asked if Sven could check the mail.

5 Q Did he ever get back to you?

6 A Yeah, we spoke that afternoon.

7 Q What happened?

8 A He asked me to come over.

9 Q Did you do that?

10 A No. I picked up my daughter at three o'clock
11 after work and she was sick.

12 Q So, on the afternoon of the 13th by that time had
13 you heard from Ruth Williams?

14 A No.

15 Q So, you left the florist at about three o'clock
16 and went up and picked up your daughter?

17 A Uh-huh.

18 Q And you went home at that point?

19 A I picked her up at my mother's house and then I
20 went home.

21 Q And you never spoke to Ruth Williams again after
22 that?

23 A No.

24 Q When was the last time you saw Ruth Williams
25 alive?

1 A On Monday, at work.

2 Q Okay. That would have been Monday of that week?

3 A Uh-huh.

4 Q Thank you very much, Miss Daly. I have no
5 further questions.

6 THE COURT: Mr. Chamberlain.

7 MR. CHAMBERLAIN: Thank you.

8 CROSS-EXAMINATION

9 BY MR. CHAMBERLAIN:

10 Q Miss Daly --

11 A Uh-huh.

12 Q Did you -- you were friendly with her, you knew
13 something about her background at that time, right?

14 A Uh huh, yes.

15 Q And on the 14th of April, did you give -- were
16 you questioned by 'a detective about your knowledge of Ruth?

17 A Yes.

18 Q Is that Detective Cereghino, do you know?

19 A I don't remember.

20 Q Do you remember telling him that she used to go
21 to bars; she specifically said she didn't go to the
22 Downtown, do you recall that?

23 A No. That was the bars in town, yeah.

24 Q The Downtown was a bar right below where she
25 lived?

1 A Right.

2 Q Was there any particular reason why she didn't go
3 to the Downtown, do you know?

4 A She said it was a younger crowd.

5 Q A what?

6 A A younger crowd.

7 Q Anything to do with drugs?

8 A No.

9 Q You told the detective that she had
10 ex-boyfriends, John, Mike, and dated them at the same time.
11 Did you know those persons last names?

12 A No.

13 Q Did she tell you -- did she complain about a
14 police officer stalking her and reporting him?

15 MR. BIANCAVILLA: Objection.

16 THE COURT: Sustained. That's not the proper
17 way to question.

18 Q Did you tell the detective that she advised you
19 about a police officer stalking her?

20 MR. BIANCAVILLA: Objection.

21 THE COURT: Sustained.

22 Q Do you recall any complaints that Ruth told you
23 about that you related to Detective Cereghino about
24 completing -- police officer --

25 MR. BIANCAVILLA: Objection.

1 THE COURT: What document are you using?

2 MR. CHAMBERLAIN: I'm using Rosario
3 materially that I got this morning, which are notes of
4 Detective Cereghino.

5 THE COURT: Okay.

6 MR. CHAMBERLAIN: If you want to see it.

7 THE COURT: Yes, I would like to see it.

8 MR. BIANCAVILLA: What's the exhibit number
9 on the bottom?

10 THE COURT: 3.

11 THE COURT: Overruled.

12 MR. BIANCAVILLA: Did you say Exhibit 3?

13 THE COURT: Page three.

14 MR. BIANCAVILLA: There's no exhibit --

15 THE COURT: I didn't see the exhibit.

16 MR. BIANCAVILLA: What exhibit number is
17 that?

18 MR. CHAMBERLAIN: I believe it's 50.

19 MR. BIANCAVILLA: Five zero? Okay. I have
20 it, Judge.

21 MR. CHAMBERLAIN: Could you repeat the
22 question back to the witness?

23 THE COURT: Yes.

24 (Whereupon, the referred to question as read
25 back by the reporter as instructed.)

1 A No.

2 Q You don't recall that?

3 A No.

4 Q Do you recall her -- you telling Detective
5 Cereghino that Ruth had told you she reported this police
6 officer and he was a uniformed police officer?

7 A No.

8 Q Do you recall -- did you tell Cereghino that Ruth
9 liked biker-types?

10 MR. BIANCAVILLA: Objection.

11 THE COURT: I'm not sure what the relevancy
12 is.

13 MR. CHAMBERLAIN: Background of Ruth, Judge.

14 THE COURT: I'll permit you a little bit of
15 leeway, Mr. Chamberlain.

16 Overruled.

17 A Yes.

18 Q What was that?

19 A Yes.

20 Q Did she mention the Pagans at the time of that
21 discussion you had with Ruth about biker-types?

22 MR. BIANCAVILLA: Objection.

23 THE COURT: Sustained. Sustained.

24 MR. CHAMBERLAIN: Sustain?

25 THE COURT: Yes.

1 Q Did you tell the Detective Cereghino about Ruth's
2 drinking habit?

3 A I don't remember. I think they asked me what --
4 did she drink beer or wine, or something like that. What
5 kind of drink did she drink.

6 Q Well, you mentioned that she went out -- she
7 frequented a lot of bars. Did you tell the detective
8 anything about her having come in drunk on occasion?

9 A No.

10 Q Did you tell the detective anything about Ruth
11 taking various types of drugs?

12 MR. BIANCAVILLA: Objection.

13 THE COURT: I'll permit that.

14 A No.

15 Q Did you tell the detective when you asked Ruth
16 about pills, she said she didn't take that many; do you
17 recall that?

18 A No.

19 Q Did you ever tell the detective that Ruth showed
20 up late one day and she showed up drunk. She was upset
21 because she had a guy she had put in jail had just got out;
22 do you recall that?

23 MR. BIANCAVILLA: Objection.

24 THE COURT: There's a time and place,

25 Mr. Chamberlain.

1 MR. CHAMBERLAIN: Well, these are notes of
2 the detective, Judge.

3 MR. BIANCAVILLA: Judge, I'm going to object
4 and ask to approach.

5 THE COURT: Yes, come forward.

6 MR. BIANCAVILLA: Please.

7 (Whereupon, the following takes place at the
8 Bench, between the Court and Counsel:)

9 MR. BIANCAVILLA: Judge, this entire line of
10 questioning, all these questions, are improper
11 questions. He's -- if he has questions he wants to ask
12 her and impeach her with answers from the notes of
13 Detective Cereghino, he can do so. But just saying,
14 Did you ever tell Detective Cereghino, without first
15 asking her about dates, times and places --

16 THE COURT: When this line of questioning
17 first started I said to you, Mr. Chamberlain, it was
18 the improper way to do it. Mr. Biancavilla is right,
19 you should be questioning her, if she gives you an
20 answer which contradicts the notes of what she told the
21 detective, you can then go on to say, didn't you tell
22 detective whomever, on such and such a date, and then
23 you can read into the record what she told him. That
24 is the proper way to do it.

25 MR. CHAMBERLAIN: Judge, I had asked this

1 witness if she ever told the detective about Ruth being
2 drunk and she said no. So --

3 THE COURT: The question is not that she ever
4 told the detective.

5 MR. BIANCAVILLA: The question would be, have
6 you ever seen Ruth Williams on such and -- first of
7 all, not have you ever seen. But on a specific day did
8 Ruth Williams come in and was she intoxicated. If she
9 says yes, there's no impeachment. If she said no --

10 THE COURT: You have to lay the foundation.
11 Depending on her response, as to whether you can use
12 the detective's notes for cross-examination as to
13 credibility.

14 MR. CHAMBERLAIN: All right. Thank you.

15 MR. BIANCAVILLA: And furthermore, my
16 objection would be, what difference does it make?
17 What's the relevancy of Ruth Williams coming to work
18 drunk? That's my second objection.

19 MR. CHAMBERLAIN: He's brought out character,
20 unfortunately, the character of -- there is an issue
21 here. He already brought it out. He had witnesses
22 testify as to what she's like. And it's her habits,
23 what she did. What she was like is going to be an
24 issue in this trial.

25 THE COURT: I will permit you with respect to

1 that.

2 MR. CHAMBERLAIN: Thank you, Judge.

3 (Whereupon, the following takes place in open
4 court:)

5 THE COURT: Okay, Mr. Chamberlain.

6 Q Miss Daly, you knew the victim for approximately
7 a year, is that right?

8 A About a year and four months maybe.

9 Q And did -- during that period of time did Ruth at
10 any time show up drunk?

11 A No.

12 Q No? Do you recall telling Detective Cereghino
13 in January 2000, while Bill, I guess -- I can't read the
14 last initial, probably is the owner, Bill something, on
15 vacation, Ruth was late for work one day, showed up drunk.
16 Do you recall that?

17 A No. She never showed up drunk.

18 Q Does it refresh your recollection, if you told
19 the detective she was upset because a guy she had put in
20 jail just got out and had left a note on her car?

21 A Yes.

22 Q Do you recall who that guy was? Did she tell you
23 who that guy was?

24 MR. BIANCAVILLA: Objection, relevancy,
25 Judge.

1 THE COURT: Well, I'm going to permit it. If
2 she knows.

3 A I don't know.

4 Q Did you ever go out with Ruth in the evening to
5 any bars in Farmingdale?

6 A No.

7 Q Did you know any of the bars on Main Street?

8 A Yes.

9 Q Did you frequent any of the bars that were on
10 Main Street at that point in time in April of 2000?

11 A No.

12 Q When she said she liked bikers, did she say
13 anything about the places she was frequenting, any of those
14 bars?

15 A No. Not the Downtown, no. That's the only one I
16 know she didn't go there.

17 Q You didn't live anywhere near Farmingdale, do you
18 ma'am?

19 A I grew up --

20 MR. BIANCAVILLA: Objection.

21 A I grew up in Plainview.

22 THE COURT: It's kind of an awkward question,
23 I'll permit it.

24 A I grew up in Plainview -- in Old Bethpage, which
25 is the town next to it, growing up.

1 Q Did you know the Downtown bar?

2 A I have been in it.

3 Q Falcon's Nest?

4 A I don't know, no.

5 Q Y.L. Childs?

6 A No.

7 Q Did Ruth ever tell you that she had been in a --
8 had been in a bar, a local bar, and had a big fight with
9 John's brother, ever tell you anything about that?

10 MR. BIANCAVILLA: Judge, objection. Again,
11 it's vague. There's no date, time or place.

12 THE COURT: Yes. I think if you could be a
13 little more specific, Mr. Chamberlain.

14 Q A few months ago.

15 THE COURT: A few months ago, in the year
16 2000?

17 MR. CHAMBERLAIN: A few months prior to the
18 time she spoke to the detective.

19 THE COURT: We were talking about the year
20 2000?

21 MR. CHAMBERLAIN: That's right, Judge.

22 Q Few months prior to the time you spoke to
23 Cereghino, the detective, did Ruth tell you that she had
24 been in a local bar and had a big fight with John's brother?

25 A Yes.

1 Q No?

2 A Yes.

3 Q Did she tell you what the fight was about?

4 A I really don't remember.

5 Q Did she mention who John was?

6 A That was somebody she dated.

7 Q Someone she dated. Did she describe this person
8 other than someone she dated?

9 A No.

10 MR. CHAMBERLAIN: Nothing further. Thank
11 you, Judge.

12 THE COURT: Redirect?

13 MR. BIANCAVILLA: No, Judge.

14 THE COURT: Thank you, Miss Daly. You can
15 step down.

16 THE WITNESS: Thank you.

17 (WITNESS EXCUSED)

18 THE COURT: Counsel, approach the Bench
19 please.

20 (Whereupon, there is a discussion held at the
21 Bench, off the record, between the Court and Counsel.)

22 THE COURT: Ladies and gentlemen, at this
23 time we were going to be excusing you for the day.
24 Sometimes scheduling is just the way things happen that
25 we won't be able to continue again until tomorrow

1 morning at 9:30.

2 Now, at this point, again, do not discuss the
3 case among yourselves or with anybody else. Keep an
4 open mind. Do not form or express any opinions until
5 the entire case is completed. Do not read or listen to
6 any account of this case, should it be reported in the
7 media. Do not visit or view any places mentioned. You
8 are not to permit any party to discuss this case with
9 you or attempt to influence you. You must promptly
10 report to the Court any violation thereof.

11 Have a nice day. We will see you tomorrow
12 morning at 9:30.

13 (Whereupon, the sworn jury and alternates
14 leave the courtroom)

15 THE COURT: Mr. Biancavilla, can you tell
16 Mr. Chamberlain what witnesses you have for tomorrow.

17 MR. BIANCAVILLA: Yes. Tomorrow's witnesses
18 will be Francine Quinn, Thomas Hardman, Bill DeLuso,
19 Sven's brother, Melissa Notarnicola, Frank DeFalco,
20 Penny Shouse. I believe those are all the witnesses we
21 have scheduled for tomorrow, Judge.

22 MR. CHAMBERLAIN: That's seven.

23 MR. BIANCAVILLA: There are seven witnesses.

24 THE COURT: Okay. Anything further, Counsel?

25 MR. BIANCAVILLA: Not unless you want me to

1 have more than seven witnesses, Judge. They went
2 pretty fast today. I think these will be more
3 involved. I believe Mr. Chamberlain should have more
4 cross-examination for those witnesses.

5 Again, Judge, with these civilians, I'm
6 taking them out of work. I would prefer not have to
7 them sit here all day and not put them on and have them
8 come back the next day. I figured seven would be
9 sufficient for tomorrow.

10 THE COURT: Is it possible we can have a
11 backup of a police witness, Mr. Biancavilla?

12 MR. BIANCAVILLA: I'll do my best, Judge.

13 MR. CHAMBERLAIN: Judge could we --

14 THE COURT: Yes, Mr. Chamberlain?

15 MR. CHAMBERLAIN: I'm sorry. Could we
16 discuss a little bit on expert witnesses, because
17 lining those up is fairly difficult.

18 MR. BIANCAVILLA: Sure.

19 MR. CHAMBERLAIN: Because they're of a
20 nature --

21 MR. BIANCAVILLA: I'm anticipating, if all
22 goes well, to start with my police witnesses on
23 Wednesday. I anticipate Detective Shiraldi testifying
24 on Wednesday and then Mr. Rosati from the FBI
25 testifying on Thursday.

1 THE COURT: You think they will take the
2 better part of the day?

3 MR. BIANCAVILLA: It depends on how long
4 Mr. Chamberlain cross-examines them. My DNA expert,
5 Megan Clement will be here and she's going on either
6 Thursday or Friday, depending upon how quickly we move
7 through the witnesses. I expect to have my case in,
8 Judge, so you're aware, my case should be complete,
9 assuming everything goes as planned, by the end of the
10 day on Tuesday of next week.

11 THE COURT: Okay. I would ask that you have
12 a police witness available for tomorrow.

13 MR. BIANCAVILLA: Again, I can only take
14 certain witnesses out of order, Judge. I can't --
15 again, this case, the flow of the evidence is very
16 important. I'll do the best I can.

17 THE COURT: Okay.

18 Yes, Mr. Chamberlain?

19 MR. CHAMBERLAIN: Shiraldi on Wednesday.
20 There are quite a few other police officers as
21 witnesses. He mentioned FBI and DNA experts. What
22 about the other police, are they on Wednesday?

23 MR. BIANCAVILLA: No.

24 THE COURT: Counsel, approach the bench.

25 (Whereupon, there is a discussion held at the

1 Bench, off the record, between the Court and Counsel.)

2 THE COURT: Okay.

3 THE CLERK: Mr. Scrimo, your case is being
4 adjourned until tomorrow, May 7th. You must be here on
5 that date. If you fail to appear, a warrant will be
6 issued for your arrest, any bail posted will be
7 forfeited, the case will proceed in your absence and
8 the assistant district attorney can charge with you an
9 additional charge of bail jumping.

10 THE DEFENDANT: Thank you.

11 THE CLERK: Be back tomorrow. You may step
12 out.

13 (Whereupon, court stands in recess. The
14 trial is adjourned to May 7th, 2002 at 9:30 a.m.)
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